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REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN TAJIKISTAN

I. INTRODUCTION

1. In my letter dated 16 December 1993 (S/26912), I informed the members of the Security Council of my decision, after consulting with the Government of Tajikistan and others, to appoint Ambassador Ramiro Piriz-Ballon, Permanent Representative of Uruguay to the United Nations, as my Special Envoy for Tajikistan. The current mandate of the Special Envoy expires on 31 March 1994.

2. In a letter dated 22 December 1993 (S/26913), the President of the Council informed me that its members welcomed my decision to appoint Mr. Piriz-Ballon. He also indicated the Council's interest in receiving reports on Mr. Piriz-Ballon's mission and on any future recommendations I might wish to make in the context of that mission.

3. In the discharge of his mandate, in January and February 1994 my Special Envoy undertook two trips to Tajikistan, where he had meetings in Dushanbe with the President, the First Vice-President, the Prime Minister, the Foreign Minister and other senior officials of the Government. He also visited Khorog, the regional capital of Gorny Badakhshan, where he had discussions with various groups, including the field commanders of the major groups opposing the central Government. He visited Khojand, the capital of Leninabad region, where he held talks with regional leaders. During this period, the Special Envoy also had talks with Foreign Ministers and other high-ranking officials in the capitals of the Islamic Republic of Iran, Pakistan, the Russian Federation and Uzbekistan. During a visit to Rome, he had consultations with officials of the Italian Foreign Ministry on the coordination of United Nations and Conference on Security and Cooperation in Europe (CSCE) activities in Tajikistan. In Geneva he had discussions with the United Nations High Commissioner for Refugees (UNHCR) on political and humanitarian aspects of the Tajik refugee problem.

II. THE SITUATION IN TAJIKISTAN

4. The situation in Tajikistan, especially on its borders with Afghanistan, remains unstable and explosive. Armed opposition groups engage in cross-border infiltration and fighting with Government forces on a daily basis, while the

armed opposition continues attacks inside the country. With the onset of spring, military confrontations may intensify further.

5. Instability and fighting in neighbouring Afghanistan continue to have a negative effect on the situation in Tajikistan. This presents a real danger and could have unpredictable negative consequences for peace and security in the region as a whole.

6. Another alarming dimension is the danger of confrontation along ethnic lines. Serious tension already exists in the southern Tajik province of Khatlon, and a confrontation between Tajiks and Uzbeks in Afghanistan could easily spill over to Tajikistan and other Central Asian States.

7. The economic situation in Tajikistan continues to deteriorate rapidly. The transportation system is paralysed owing to the severe shortage of fuel, many industrial enterprises are closed, and the population is suffering from the shortage of food. There are interruptions of electricity and water supply in many provinces of the country.

III. VIEWS OF THE GOVERNMENT OF TAJIKISTAN

8. During the Special Envoy's talks in Dushanbe, the President of Tajikistan unambiguously confirmed the decision of his Government to start negotiations with the Tajik opposition under United Nations auspices as soon as possible, without preconditions or the exclusion of opposition personalities. In this connection, Tajik government leaders stressed the need to have the talks with the "real and influential opposition leaders" who control military groups and with those who have serious political leverage in the country.

9. With regard to the venue for the talks, Tajik government leaders suggested Moscow as the most appropriate place for negotiations. However, they were negative about the participation of observers at the talks, stressing that their presence, especially in the initial stages, might complicate the process of negotiations. At the same time, they supported the idea proposed by opposition groups and personalities based in Gorny Badakhshan and Moscow that the Russian Federation could act as a "facilitator" of the negotiations.

10. During talks with the Special Envoy, Tajik government officials expressed their hope that the opposition groups would agree to a cease-fire in the border areas and would adopt a restrained attitude at the time of the beginning of negotiations. On their own side, they gave assurances that they would adopt a restrained attitude and not resort to unprovoked military actions.

11. Tajik leaders also informed my Special Envoy that during the last year 27,000 refugees had been repatriated from the Mazar-e-Sharif area, but more than 50,000 of them still remained in Afghanistan. They stressed that the efforts to start a negotiation process should be complemented by concerted efforts to complete the repatriation of refugees. In their view, sustainable peace and national reconciliation could not be achieved in Tajikistan without the solution of the refugee problem. In this connection, they commended the efforts made by UNHCR and emphasized the need to continue the repatriation programmes.

IV. VIEWS OF THE TAJIK OPPOSITION

12. In Teheran, Khorog and Moscow, my Special Envoy held talks with leaders of opposition parties and movements, including the Democratic Party of Tajikistan, the Islamic Revival Party, the "Rastokhez" People's Movement, and the Coordination Committee of Tajik Democratic Forces in the Commonwealth of Independent States (CIS) countries.

13. My Special Envoy was able to obtain the agreement of the opposition leaders to begin talks with the Government at an early date. However, they rejected the idea of having Moscow as a venue for the talks. As alternative venues they suggested Teheran or Islamabad. They also suggested that negotiations should be arranged under the auspices of the United Nations, with the participation of observers from Afghanistan, the Islamic Republic of Iran, Pakistan, the Central Asian countries and the Russian Federation. The opposition leaders also expressed their strong wish to have pre-negotiation talks with representatives of the Russian Federation.

14. The opposition leaders expressed their hope that the Government of Tajikistan would announce a general amnesty for political prisoners before the opening of negotiations. For their part, leaders of the Democratic Party and the "Rastokhez" People's Movement renounced terrorist actions against the current Government of Tajikistan and expressed their belief that political dialogue was the only way to reach a peaceful solution in the country.

15. In Gorny Badakhshan, the interlocutors of the Special Envoy expressed serious concern about the ongoing fighting in Afghanistan, which, in their view, could spill over to their own region. They believed that the critical humanitarian situation in Gorny Badakhshan would deteriorate further with a refugee flow from Afghanistan. In this connection, they stressed that sustainable peace in Tajikistan would be greatly facilitated by parallel action to bring peace to Afghanistan.

V. VIEWS OF NEIGHBOURING AND OTHER COUNTRIES

16. The Special Envoy's interlocutors in the Islamic Republic of Iran, Pakistan, the Russian Federation and Uzbekistan strongly supported the efforts of the United Nations to bring the Tajik parties to the negotiating table as soon as possible and, through political dialogue, to reach agreement on a cease-fire. They supported the view that the inter-Tajik talks should start without preconditions or the exclusion of possible counterparts on either side.

17. Some officials of countries neighbouring Tajikistan raised their concern over the danger of further escalation of fighting both at the Tajik-Afghan border and inside Tajikistan itself. In their assessment, time was running out for engaging exiled Tajik leaders and the Government in a serious effort at reconciliation.

18. Representatives of the Islamic Republic of Iran, Pakistan and the Russian Federation each suggested their capitals as a venue for inter-Tajik talks and

expressed their readiness to facilitate them in any way the United Nations would believe necessary.

VI. LATEST DEVELOPMENTS AND OBSERVATIONS

19. In order to facilitate the resolution of the differences between the Tajik Government and the opposition on the issues of venue and the presence of observers at the talks, as well as to speed up their early beginning, the Government of the Russian Federation agreed with the Tajik opposition's request to have unofficial consultations with them before the start of the political dialogue between the Tajik parties. During a visit to Teheran on 6 and 7 March 1994, Mr. A. Adamishin, Special Envoy of President B. Yeltsin and First Deputy Foreign Minister of the Russian Federation, obtained the agreement of Tajik opposition leaders to have Moscow as the venue for talks. At the proposal of the opposition leaders, Mr. Adamishin agreed to a rotation of the venue to Teheran and Islamabad after the Moscow round. There was also an agreement that Afghanistan, the Islamic Republic of Iran, Pakistan, the Russian Federation and the Central Asian States would be observers at the talks.

20. In a letter of 23 March 1994 to my Special Envoy, the President of Tajikistan accepted the modifications in the format of negotiations that were agreed upon by Mr. Adamishin and Tajik opposition leaders in Teheran, although the issue of the venues for the future rounds of negotiations may be brought up at the first round. He stated that the Government of Tajikistan was prepared to start negotiations with the opposition in Moscow as soon as possible.

21. In a letter to my Special Envoy dated 26 March 1994, Mr. A. Turojanzodah, head of the delegation of the Tajik opposition for the talks with the Government and the Deputy Chairman of the Islamic Revival Party of Tajikistan, informed him that the delegation of the Tajik opposition was prepared to start talks in Moscow as soon as possible, without preconditions.

22. In view of the above developments, I instructed my Special Envoy to invite the Tajik parties to a first round of talks to be held in Moscow. I also instructed him to inform the Governments of Afghanistan, the Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Pakistan, the Russian Federation and Uzbekistan, which would participate in the talks as observers.

23. I also decided to extend the current mandate of my Special Envoy, which expires at the end of March 1994, for another three months until the end of June 1994. I believe it would also be necessary to extend for the same period the mandate of a small group of United Nations officials currently in Tajikistan. They would provide essential substantive and other support for the activities of the Special Envoy.

24. As will be recalled, in my letter dated 26 April 1993, I informed the members of the Security Council that the mandate of my Special Envoy was threefold, namely:

(a) To obtain agreement on a cease-fire and make recommendations on such international monitoring mechanisms as may be appropriate;

(b) To ascertain the positions of all the concerned parties and to make good offices available to assist the establishment of a process of negotiations for a political solution;

(c) To enlist the help of neighbouring countries and others concerned in achieving the above objectives.

I have now added the following provision to this mandate: "At the request of the parties concerned, to provide good offices during the political negotiations on national reconciliation".

25. The agreement of the Tajik parties to begin a political dialogue on national reconciliation is a welcome development. It gives the Tajik people the chance to close a tragic chapter in their history and to prevent further suffering and bloodshed. I will be ready to recommend to the Security Council a positive response to any reasonable request the parties may make for international monitoring mechanisms as may be appropriate.

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REPORT OF THE SECRETARY-GENERAL ON HIS MISSION OF GOOD OFFICES IN CYPRUS

1. The present report is submitted pursuant to Security Council resolution 902 (1994) of 11 March 1994. In paragraph 4, the Council requested me to submit a report by the end of March 1994 on the outcome of my efforts to finalize an agreement on the modalities for the implementation of the package of confidence-building measures first described in my report to the Council of 1 July 1993 (S/26026).

2. In my most recent report to the Security Council (S/1994/262), on 4 March 1994, I informed the Council of the efforts that I had made since my previous report submitted on 22 November 1993 (S/26777). By the end of February, the discussions on the seven issues on the agreed agenda of the proximity talks with the leaders of the two communities in Cyprus had clarified to a large extent their respective positions. It was agreed that my representatives should put forward ideas designed to assist the two parties to reach a common position by reconciling their views on each of the issues that comprised the agenda.

3. A paper entitled "Draft ideas for the implementation of the package of confidence-building measures" was presented to each leader on 9 March by my Deputy Special Representative, Mr. Gustave Feissel. On 16 and 18 March, Mr. Feissel engaged in extensive discussions of the draft ideas with each leader. On the basis of these discussions, an adjusted version of the draft ideas was prepared, taking into account many of the points raised by each side. My Special Representative, Mr. Joe Clark, returned to Cyprus on 19 March and remained there until 23 March. During his stay, meetings took place with each leader on 21, 22 and 23 March in an attempt to reach an agreement on the basis of the adjusted ideas as presented to both leaders on 21 March.

4. In commenting to Mr. Clark on the 21 March text of the ideas, the Turkish Cypriot leader voiced numerous objections, stating that the ideas contained changes from the wording of the package of 1 July 1993 in favour of the Greek Cypriot side. He emphasized in particular his continuing objections to the proposals in the ideas related to security of access between the United Nations-controlled buffer zone and Varosha, the arrangements concerning traffic rights at Nicosia International Airport, the schedule for the implementation of the Varosha/Nicosia International Airport package, especially regarding the timing

of benefits to the Turkish Cypriot community and the collection by the United Nations of customs duties in both areas. The leader of the Greek Cypriot community stated that, while he did not like many of the changes that had been introduced in the 21 March text, he was prepared to accept that revised text if the Turkish Cypriot leader would do likewise.

5. Before leaving Cyprus on 23 March, Mr. Clark stated publicly that he had not received from the Turkish Cypriot side the agreement that he had hoped for on the implementation of the package. He stated that there was still time to reach an agreement before I had to submit my report to the Security Council and that he hoped that news would be received from the Turkish Cypriot side that would make an agreement possible. He stated that Mr. Feissel would remain in touch with both leaders.

6. On 28 March, Mr. Feissel again met with the leader of the Turkish Cypriot community to pursue discussions to reach an agreement on the ideas for the implementation of the package of confidence-building measures. At the conclusion of this meeting, Mr. Feissel confirmed publicly that there had been no new developments and that the Turkish Cypriot side had not provided the response necessary to make an agreement on the implementation of the confidence-building measures possible.

7. I continue to believe that the package of confidence-building measures, combined with the revised ideas of 21 March 1994, offers real benefits to both sides, which would accrue to each in a fair and timely manner. During the next few weeks, my representatives and I will continue high-level contacts with the two Cypriot parties and others in pursuit of an agreement on the present basis. I shall report in greater detail by the end of April on those contacts and on the substance of the proximity talks, together with my recommendations to the Security Council as to what further measures it may wish to consider.

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LETTER DATED 4 APRIL 1994 FROM THE PERMANENT REPRESENTATIVE OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith the answers of the spokesman for the Ministry of Foreign Affairs of the Democratic People's Republic of Korea to the questions put by the Korean Central News Agency, dated 31 March 1994.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) PAK Gil Yon
Ambassador
Permanent Representative

Annex

Answers by a spokesman for the Foreign Ministry of the Democratic People's Republic of Korea to questions put by the Korean Central News Agency on 31 March 1994

Question: The United States of America is now justifying its campaign for pressure on the Democratic People's Republic of Korea with the allegation that the Democratic People's Republic of Korea did not allow a full inspection by the International Atomic Energy Agency (IAEA). Please tell me the truth in detail.

Answer: The United States is contending that the Democratic People's Republic of Korea must accept a full IAEA inspection, alleging that the recent inspection of the Democratic People's Republic of Korea's nuclear facilities by IAEA was not satisfactory, but this is quite contrary to the fact.

We are in a unique status after a temporary suspension of the effectuation of our declared withdrawal from the Nuclear Non-Proliferation Treaty. So we are not obliged to accept a full inspection by IAEA pursuant to the Safeguards Agreement. Moreover, we have never agreed with the United States and IAEA on it.

We agreed only to an inspection for maintaining the continuity of safeguards. When the scope of the IAEA inspection was agreed upon at the Democratic People's Republic of Korea-United States contact in New York, in late December 1993, the sides promised that it should be a strictly limited inspection for the maintenance of the continuity of safeguards, not a routine or ad hoc inspection pursuant to the Safeguards Agreement.

At that time, the United States side asked the Democratic People's Republic of Korea not to announce to the world that it would be a limited inspection to save its face. At the New York contact in February, the United States side clarified its position that if an IAEA inspection was made, it would come out to the third round of talks with the Democratic People's Republic of Korea, irrespective of the results of the inspection.

The United States, which had promised a limited inspection and asked the Democratic People's Republic of Korea not to open it to the public and stated it would have talks with the Democratic People's Republic of Korea, irrespective of the results of the inspection, is now urging the Democratic People's Republic of Korea to accept an additional inspection, charging that it refused to accept a full inspection by IAEA pursuant to the Safeguards Agreement.

This is a self-contradictory act. This fully shows how faithless the United States is.

Question: What does the United States really seek in reversing the Democratic People's Republic of Korea-United States agreed conclusions and kicking up a row of pressure on the Democratic People's Republic of Korea?

Answer: I think it was motivated by the United States trite hostile policy towards the Democratic People's Republic of Korea. We have honestly discharged our obligation according to the agreed conclusions reached between the Democratic People's Republic of Korea and the United States at the New York contact.

The United States, however, had made false promises and it took no action in actuality. Nevertheless, the United States is resorting to pressure on the Democratic People's Republic of Korea and war provocation moves, alleging that the Democratic People's Republic of Korea has failed to implement the agreement.

How can it be construed otherwise? As we have declared more than once, if the third round of the Democratic People's Republic of Korea-United States talks had been held and the nuclear issue resolved in a package deal, IAEA's routine and ad hoc inspections of the Democratic People's Republic of Korea would have been resumed and the exchange of special envoys between the north and the south would have been possible. But the United States intentionally foiled the third round of the talks, which would be the key to the solution of the nuclear issue, setting unjustifiable preconditions. This clearly proves that the United States has no intention to resolve the nuclear issue through negotiation and it is only using the talks to stifle the Democratic People's Republic of Korea and, further, promote its strategic interests in the Asia-Pacific region.

Question: Now that we have undergone an inspection sufficient for the continuity of safeguards as we had agreed with IAEA, the United Nations Security Council has no reason or justification to discuss our issue, has it?

Answer: Of course not. The continued discussions of our issue at the United Nations Security Council under this situation only give the impression that the international Organization is courting the favour of a country. And this may be a living example that even international organizations are used for the attainment of the United States egoistic aim.

The IAEA secretariat made haste with the adoption of a "resolution" distorting the results of the inspection after carrying out the inspection of sufficient scope for the continuity of safeguards, and now the United Nations Security Council is discussing our issue. All this is manipulated behind the scene by the United States-led forces to stifle the Democratic People's Republic of Korea.

In case the United Nations Security Council follows the United States, it will seriously harm its authority as an international Organization whose lifeblood is impartiality.

If the United Nations Security Council truly wants to discharge its mission, it must not argue about the Democratic People's Republic of Korea, the victim, but argue about the acts of the United States, the assaulter, and put pressure on it. If the United Nations Security Council, departing from the principle of impartiality, defends the United States, the assaulter, for the reason that it is a big Power and puts unwarrantable pressure upon the victim for the reason that it is a small country, the small countries will no more trust the United Nations.

The United Nations Security Council must not be used as a rostrum for putting unreasonable pressure upon the Democratic People's Republic of Korea over the nuclear issue.

Question: What measures are needed in your opinion for paving the way for a solution to the nuclear issue?

Answer: The United States must no longer pursue a hostile policy towards Korea, first of all. Since the nuclear issue on the Korean peninsula was caused by the United States policy to stifle our system, as mentioned above, if it is to be solved, the United States must take measures first for removing the nuclear threat to us and giving up its hostile policy.

Still today, when the nature of its anti-Democratic People's Republic of Korea moves has been brought to light, the United States is resorting to the row of pressure against us, calling for a United Nations "resolution" and the like. This cannot be justified by anything.

The south Korean authorities must ponder over the lot in which they would find themselves while running about reckless, not knowing their position as now. The United States must sincerely implement the agreed conclusions reached at the contact with us.

It is a violation of the Democratic People's Republic of Korea-United States agreed conclusions and a mockery of our sovereignty for the United States to demand a full inspection of the Democratic People's Republic of Korea by IAEA and the exchange of special envoys between the north and the south, not implementing its own obligations at all.

Pressure can never be a way to solve the problem but it only makes the situation complicated. It is nonsensical to urge us to accept an additional inspection since we have already accepted, fairly and squarely, an inspection of a scope sufficient for the continuity of safeguards according to our agreement with the United States and IAEA.

If the United States continues to misuse our sincere efforts to resolve the nuclear issue, we would no longer pin hope on the Democratic People's Republic of Korea-United States talks and will counter any pressure to the end.

But, if the United States puts a stop to the international pressure campaign against the Democratic People's Republic of Korea and proceeds with the re-establishment of the foundation of the Democratic People's Republic of Korea-United States talks, we would not oppose a negotiated solution to the issue.

Our position to resolve the nuclear issue through dialogue is consistent.

The future development and a peaceful solution to the nuclear issue entirely depend on the attitude of the United States.

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LETTER DATED 4 APRIL 1994 FROM THE DEPUTY PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to present to you the attached letter from Mr. Mirko Pejanović, a member of the Presidency of the Republic of Bosnia and Herzegovina, to you dated 31 March 1994.

May I ask for your kind assistance in circulating this letter as a document of the Security Council.

(Signed) Ivan Z. MISIC
Deputy Permanent Representative

Annex

Letter dated 31 March 1994 from the President of the Serb Civic Council and member of the Presidency of the Republic of Bosnia and Herzegovina addressed to the President of the Security Council

I have the honour to inform you that the Assembly of Citizens of Serbian Nationality and of Serb Ethnic Origin of the Republic of Bosnia and Herzegovina, held on 27 March 1994 in Sarajevo, with the participation of 428 delegates and a great number of distinguished guests, His Excellency Mr. Charles Redman, Special Envoy of the President of the United States, Mr. Bill Clinton, for former Yugoslavia being one of them, successfully completed its work with the adoption of two documents:

Declaration of the Assembly of Citizens of Serbian Nationality and of Serb Ethnic Origin; and

Appeal to the Citizens and Peoples of the Republic of Bosnia and Herzegovina to Summon the Convention of Confidence.

On this occasion I attach hereto the above-mentioned documents.

The Assembly has elected the Serb Civic Council that is to represent the will and interests of the citizens of Serbian nationality and of Serb ethnic origin, who live in the territory controlled by the legal authorities of the Republic of Bosnia and Herzegovina, before the international forums, particularly relating to activities of the peace process.

We are certain that we shall have your full support for our efforts in establishing a just peace and a free, independent and sovereign Republic of Bosnia and Herzegovina, within its internationally recognized borders, to the benefit of all its constituent peoples, Bosniacs, Serbs and Croats, and all others who live in it.

(Signed) Mirko PEJANOVIĆ
President of the Serb Civic Council
and member of the Presidency of the
Republic of Bosnia and Herzegovina

Enclosure I

Declaration dated 27 March 1994 of the Assembly of Citizens of Serbian Nationality and of Serb Ethnic Origin

Citizens of Serbian nationality and of Serb ethnic origin in the Republic of Bosnia and Herzegovina, of various political convictions, both believers and atheists, condemn the aggression against Bosnia and Herzegovina, demand peace, without any delay, and negotiations as the civilized way of resolving conflicts and disputes.

The Assembly emphasizes that no political objective whatsoever can justify the suffering of innocent population, genocide and ethnic cleansing committed against all the citizens, against Bosnian Muslims in particular, and the destruction of huge material and spiritual assets.

Therefore, we voice our protest again, in order to bring to trial all those who inspired and perpetrated war crimes, observing the principle of individual responsibility and guilt and against every form of imposing collective responsibility.

Bosnia and Herzegovina is the historical fact and its future lies in its independence and sovereignty, within its internationally recognized borders. It is only the citizens of Bosnia and Herzegovina who have the inalienable right to arrange their country the way they want it.

We plead for the Republic constituted on the principles of parliamentary democracy and political pluralism in which human rights and freedoms will be guaranteed equally to all its citizens.

The Republic of Bosnia and Herzegovina should be arranged as a federal State, on the principle of regional and local self-governance, without ethnic connotations and dominations. Federal authority should be established on a parity basis, while regional and local ones should be established on the proportional participation of citizens of all ethnic groups. Mechanisms should be established on the entire territory of Bosnia and Herzegovina in order to prevent every form of majority hegemony and domination based on ethnic or religious grounds.

We plead for the social and economic system which would be founded on the market economy, equality of all forms of ownership, free enterprise and openness to new ideas, know-how and knowledge.

It is in such solutions that we see the fulfilment of the interest of Serbian people - on equal grounds, together with Bosniacs and Croats as well as other ethnic groups.

The Assembly particularly underlines that the crucial prerequisite for peace and for stable development of the Republic of Bosnia and Herzegovina is the reciprocal recognition of all the States originating from former Yugoslavia,

the restoration of mutual confidence and cooperation and, eventually, joining on the basis of full equality.

The Assembly insists on the complete recovery of human and civic rights. These are the presumptions of a modern and democratic society within which full appreciation and fostering of specific ethnic traits, heritage and culture, full national equality within and outside the government institutions and bodies, would be realized.

The Assembly calls upon all citizens, particularly those of Serbian nationality and Serb ethnic origin, to commit themselves to the building of confidence among people based on tradition and mutual understanding, respect and appreciation of national, political, cultural, religious and other specific traits.

Today, the citizens of Serbian nationality and Serb ethnic origin, those who have always declared themselves in favour of peaceful settlement of the existing problems, are looking for a fair peace, freedom and a democratic society.

They have endeavoured and will continue to do so, despite all temptations, in order to build the Republic of Bosnia and Herzegovina, jointly and equally with its other citizens.

We deny anyone, particularly the Serbian Democratic Party (SDS) that is the principal culprit of the ethnic conflict and aggression, to claim to represent all the citizens of Serb ethnic origin. The same we deny to any political subject who could cause ethnic conflicts and suffering of citizens.

We underline the importance of the struggle against every nationalism within its own people. Because, besides causing damage and evil to its own people, it generates nationalism within other peoples. We also oppose all individuals who, through their secret or open actions, provoke ethnic hatred and conflicts for the sake of their selfish interests which they promote as national interests and even as the interests of the State itself. They provide ground for fascism and pose a lethal threat to the Republic of Bosnia and Herzegovina and its citizens.

The Assembly rejects every attempt to create a new demographic map of Bosnia and Herzegovina and strongly condemns the methods of ethnic cleansing and forcible displacement of people. We demand that the international community and all the authorities create necessary conditions for the safe return of all citizens to their homes and also provide compensation for all their hardships.

The Assembly considers that the will of the citizens of Serbian nationality and origin who live on the territory under the control of legal authorities of the Republic of Bosnia and Herzegovina should be represented by the Serb Civic Council before the international forums and in the peace process.

Fully aware of the evil caused by the war, national fascism and ethnic divisions, we appeal to all the political parties, civic associations, cultural institutions and religious communities to convene jointly the Convention of

Confidence of the Citizens of Bosnia and Herzegovina. We want to live in peace and freedom and to share it with all the others.

Our lasting objective and task is to struggle for the integral, democratic Bosnia and Herzegovina, the community of free and equal citizens and peoples.

Enclosure II

Appeal dated 27 March 1994 to the Citizens and Peoples of the Republic of Bosnia and Herzegovina to summon the Convention of Confidence

Aware of the unprecedented evil caused by the aggression, war and genocide, we appeal to all the peace-loving, democracy-oriented citizens, political organizations, cultural institutions, associations of citizens, religious communities, humanitarian and other organizations and associations to organize jointly the Convention of Confidence of all the citizens and all the peoples of the Republic of Bosnia and Herzegovina.

The Convention of Confidence is the expression of our will and desire to initiate the process of re-establishing, cherishing and developing mutual confidence among the citizens and peoples, though it is not our intention to forget and ignore the necessity to identify and punish the perpetrators of the war crimes and genocide.

The Convention of Confidence is the expression of our desire to live together - in peace and freedom - in the sovereign, internationally recognized State of Bosnia and Herzegovina.

The Convention of Confidence is also the expression of our resolution to achieve a democratic State which would meet the needs of all its citizens, the State of equal peoples.

The Convention of Confidence is the expression of our joint stance on the condemnation of the war crimes that have been committed as well as of every form of violence perpetrated against men and our joint resolution to provide conditions for all the expelled and refugees to return home.

The Convention of Confidence will reconfirm our resolute stance that Bosnia and Herzegovina is the joint and lasting - equally responsible - task for all of us.

The Assembly would like to initiate the submitting of the request to carry out the prosecution of all the war crimes perpetrated in the territory of Bosnia and Herzegovina, based on the gathered proofs and facts.

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Forty-eighth session
Agenda item 38
ELIMINATION OF APARTHEID AND ESTABLISHMENT OF A UNITED, DEMOCRATIC AND NON-RACIAL SOUTH AFRICA

SECURITY COUNCIL
Forty-ninth year

Letter dated 31 March 1994 from the Chairman of the Special Committee against Apartheid to the Secretary-General

In accordance with the programme of work of the Special Committee against Apartheid for 1994 and in my capacity as its Chairman, I undertook, together with a small delegation of the Committee, a mission to South Africa from 28 February to 6 March 1994. I have the honour to enclose herewith the report of the mission.

I would be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 38, and of the Security Council.

(Signed) Ibrahim A. GAMBARI
Chairman
Special Committee against
Apartheid

ANNEX

Special Committee against Apartheid

Report of the Chairman of the Special Committee against Apartheid on his mission to South Africa, 28 February to 6 March 1994

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I. INTRODUCTION

1. The year 1993 was significant in several aspects of the political history of South Africa. It was marked by a high level of political violence resulting in thousands of deaths and widespread destruction of property. While no part of the country was spared, the violence was particularly pronounced in Natal.

2. 1993 was also a year of frequent strikes and boycotts. In this regard, "the chalk-down strike embarked upon by the South African Democratic Teacher's Union worsened the educational crisis, especially within the Black community. The stringent actions taken by the National Education, Health and Allied Workers' Union, a Congress of South African Trade Unions (COSATU) affiliate, devastated health services in several hospitals". 1/ All these actions had an impact on the state of the economy which was still struggling with the consequences of recession and, in the absence of adequate domestic and external resources, was unable to respond to the needs of essential sectors such as housing and employment.

3. In the political field, the Inkatha Freedom Party (IFP), the Afrikaner Volksfront (Afrikaner People's Front) including, prominently, the Conservative Party (CP), and other right-wing organizations kept out of the multi-party negotiation process, which had already produced dramatic agreements, among them a decision that South Africa's first democratic and non-racial elections would be held at the end of April 1994. A most important agreement was also reached by the negotiators on an interim constitution, which was subsequently passed into law by a special session of Parliament at the end of 1993. With these agreements, together with an electoral bill and the bills adopted in October to enact the Transitional Executive Council (TEC), the Independent Electoral Commission (IEC), the Independent Broadcasting Authority and the Independent Media Commission, the whole transition package was in place.

4. However, as the year 1993 ran its course the problem of legitimacy of the security forces still lingered on and it was generally agreed that the newly established TEC should seek ways to make those forces acceptable to the majority of citizens so as to enable them to deal more effectively with the continuing upsurge of political violence.

5. The developments cited above are, undoubtedly, positive steps on the long road to freedom in South Africa. None the less, there are reasons for caution and vigilance on the part of the international community. The negotiating process has been marred by incessant political violence. The continuing opposition of white right-wing organizations as well as of IFP to the transition process and, in particular, to the forthcoming elections, may still have serious consequences for South Africa.

6. The resolutions on the question of South Africa adopted by the General Assembly at its forty-eighth session took these developments into account, as did the resolution adopted by the Assembly on the programme of work of the Special Committee against Apartheid, which was mandated to continue to

follow closely developments in South Africa with a view to facilitating a peaceful and stable transition in that country.

7. In pursuance of its mandate, the Special Committee undertook a high-level fact-finding Mission to South Africa between 28 February and 6 March 1994. In addition, the Mission was to underline the Committee's support to the people of South Africa and their political leadership in their efforts to bring all parties into the process and conduct the elections as scheduled in an atmosphere free from violence and intimidation.

8. The Mission, which was led by the Chairman of the Special Committee against Apartheid, Mr. Ibrahim A. Gambari (Nigeria), also included Mr. Kofi Awoonor, Permanent Representative of Ghana to the United Nations and Chairman of the Subcommittee on the Implementation of United Nations Resolutions on South Africa; Mrs. Narcisa L. Escaler, Permanent Representative of the Philippines to the United Nations and Mr. Abdullahi A. Omaki (Nigeria). Mr. Johan Nordenfelt, Director, Programmes against Apartheid and for Palestinian Rights of the Secretariat, and Ms. Shenaz Nagji, from the Centre against Apartheid of the Secretariat, accompanied the Mission.

9. Members of the Mission were able to travel to Cape Town, Johannesburg, Pretoria, East London and Port Elizabeth, where, apart from holding wide consultations, they could update themselves on the current situation on the ground. In particular, members were fully briefed by the Chairman and members of IEC, the Chairman of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation (Goldstone Commission), the Chairman of the National Peace Secretariat, and representatives of the Independent Forum on Electoral Education (IFEE), Matla Trust and the Institute for a Democratic Alternative in South Africa (IDASA). Furthermore, members of the Mission received detailed briefings by the Special Representative of the Secretary-General, Mr. Lakhdar Brahimi, and by the leaders of the observer teams of the Commonwealth, the European Union and the Organization of African Unity (OAU). They were also briefed by the United Nations Observer Mission in South Africa (UNOMSA)-coordinated observer teams in East London and Port Elizabeth, where, in addition, they met with representatives of the local Peace Committees.

10. The members of the Mission also had the opportunity to follow the proceedings of TEC which, it may be recalled, was established in October 1993 to supervise Government policies in crucial areas in the period leading up to the elections. The members of the Mission further had an opportunity to attend the parliamentary session at which amendments to the interim constitution were presented and adopted.

11. A schedule of the meetings held by the team in South Africa is annexed to the present report.

II. OVERVIEW OF THE MISSION

12. At the beginning of the meetings, the Chairman stressed that this, as in the case of the Committee's first visit in 1993, was a fact-finding mission. This time it would focus more specifically on the preparations for the April elections. The Chairman, therefore, indicated that the Mission was particularly interested in gathering information on such issues as the general arrangements for the elections, voter education, safety conditions at the polling stations and their location, evaluation of the role of the international election observers and monitors, violence and the role of the peace structures, as well as the role of the international community after the elections. All these points would need to be addressed in the final report of the Committee to the General Assembly.

A. General arrangements for the election

13. There is no question that the agreement on the interim constitution reached by the multi-party negotiation process last November and the establishment of TEC have been vital steps in the transition to democracy in South Africa. A successful election is, without doubt, the next critical step in this historic process.

14. In the course of discussions with major political actors, the Mission was informed that many favoured an election that would be as inclusive as possible. This, it was reasoned, was the surest way of guaranteeing peace and stability after the elections and for the latter to act as a turning point for growth and stability. There was great concern regarding the alliance of IFP and right-wing parties within the Freedom Alliance, whose boycott of the elections posed a real danger for the transition process.

15. The magnitude of the task of holding free and fair elections in South Africa for the first time implies that all sectors of the country's society will have to contribute to their success. IEC has expressed its determination to conduct the elections with such transparency as to ensure early and lasting reconciliation among contending parties. This determination will hopefully incite political leaders, at this historic juncture, to act in the interest of the country and to allow the estimated 22 to 23 million voters to cast their votes freely.

16. In addition to the efforts undertaken by IEC in this process, the business community, having played an active role in the resumption of multi-party negotiations, continues to assist the process of transition by attempting to ensure the following:

"(a) That the elections will have a high level of participation;

"(b) That the outcome of the elections will be accepted by both victors and losers;

"(c) That the elections will take place without violence and intimidation;

"(d) That the elections will be conducted in an efficient manner and will be well-managed;

"(e) That the elections will be well-monitored". 2/

17. Many underlined the difficulty of achieving these objectives due to the country's history, which was compounded by emerging new obstacles. South Africa is one of the few countries where elections will be conducted without a voter's roll and where the only qualification required will be the possession of a voter's identification card. Consequently, prospective voters will be free to cast their votes at any of the nearly 10,000 voting stations, as well as at 650 mobile stations, across the country. The authorities overseeing the running of the elections will, therefore, have to "over-cater for the prospective voters". 3/ The huge costs involved are, for now, estimated at 155 million rand per day. 4/ Another factor to be considered is the difficulty to establish proper communications. IEC is nevertheless confident that its members and staff nationwide will carry out this historic task successfully.

B. Voter education

18. A comprehensive and well-designed education programme for first-time voters is a vital ingredient for the outcome of elections in a country where 60 per cent of the population is believed to be functionally illiterate. Such a programme must address the issue of guarantees for peaceful voting and the security of votes. In addition, the programme ought to attempt to restore the confidence of victims of apartheid in their ability to choose and run their government.

19. IFEE, one of several organizations involved in this programme, informed the Mission that it had so far trained 2,000 people, who were in turn currently training others, with the help of pamphlets as well as radio programmes.

20. The Consultative Business Movement has also thrown its weight behind the voter-education programme by creating a Business Election Fund (BEF). The key objectives of the Fund include:

"(a) To inspire the electorate from a non-partisan business perspective to participate in the election process;

"(b) To support, reinforce and promote political tolerance, freedom of association and assembly and the secrecy of the ballot among the electorate and political parties;

"(c) To provide a vision and underline the positive potential of a truly free and fair election for stability, growth and democracy;

"(d) To observe, reinforce and support the efforts of those organizations, such as the IEC, set up to organize, supervise and adjudicate a free and fair election". 5/

21. To achieve the above objectives, BEF has indicated that it will conduct a targeted non-partisan public relations and communications campaign. It will also mobilize networks, infrastructures and resources to promote support of and participation in a free and fair election. The campaign will be conducted in cooperation with IEC and organizations such as IFEE and the Democratic Broadcasting Initiative.

22. The most impressive voter education materials seen by the Mission were probably those presented by the Matla Trust. The posters and brochures were simple and easy to follow for voters, a majority of whom will vote by identifying symbols rather than reading names. The Matla Trust voter education package, if widely available, is indeed capable of getting the right message across to first-time voters.

23. However, from the Mission's interactions, it was clear that voter education has not yet reached the vast majority of the people, especially women and those who live in rural areas. IEC appears confident that, despite the time constraint, it will be able to reach out to the entire voting population before the date of the election. It is therefore noted with particular satisfaction that, after the Mission had concluded its visit to South Africa, IEC organized a national conference on voter education programmes for women.

24. Concerns have also been raised about the vast majority of potential voters who are yet to be issued with voting identification cards. While IEC was extremely confident that issuance of such cards would take less than five minutes for each, a large number of voters were still finding the formality preceding the issuance of the cards not only cumbersome but also slow and difficult. Doubts were raised as to the ability of IEC to issue such documentation in time to an estimated 23 million voters.

C. Voting stations: location and safety

25. The Mission was informed that the elections would be conducted between the hours of 7 a.m and 7 p.m on 26, 27 and 28 April 1994. While 26 April has been set aside as Special Voting Day to take care of voters outside South Africa as well as of prisoners, those in hospitals and on farms and older people, 27 and 28 April are marked as days for general voting for both the national and provincial elections. To enhance participation, 27 April has been declared a public holiday.

26. All South African citizens and permanent residents who are 18 years and older will be eligible to vote. It is projected that "between 21 and 23 million people will participate in this historic exercise, which will be organized and supervised by 160,000 election officials, all of them South Africans. The voting stations are now, as a result of the acceptance of double balloting, projected to be about 10,000 in addition to 650 mobile stations. The international elections observers are now projected to be between 2,000 and 5,000 at the peak of the electioneering, while 30,000 local monitors and about 10,000 IEC supervisors will be required". 6/ Barring unforeseen circumstances, it is presumed that these layers of officials and representatives

from contesting political parties, as well as the defence forces, will guarantee the minimum security needed at each voting station.

27. IEC officials have also stressed that efforts are currently being made to ensure that ballot boxes do not travel more than five miles to counting and other collation centres. It is reasoned that the shorter the distance for movement of ballot boxes, the greater the chances of ensuring their safety.

D. Peace structures

28. It may be recalled that the National Peace Accord, which was signed in September 1991, provided for a code of conduct to be observed both by the police forces and by political parties and organizations in the exercise of their right to free political activities. The code aims at avoiding conflicts and the structures set up under the Accord are designed to help peaceful settlement of disputes between its signatories.

29. It appeared to the Mission that the peace structures were getting weaker and, consequently, were not able to respond to cases of violence and other acts of intimidation. There is no doubt, however, that these structures and the National Peace Accord itself still provide a generally acceptable framework for the overall examination of and dealing with the question of violence in South Africa. The Mission also felt that, as desirable as it was to strengthen the peace structures, that objective would be difficult as the elections become closer because political parties have continued to withdraw from these structures some of their high-level personnel needed for their own campaigns. Indeed, peace structures appear to be effective only where they are supported by the political parties and, as in the case of East London and Port Elizabeth, are easily accessed by the international observer groups whose presence, the Mission was assured, made a great deal of difference between peace and violence.

E. Violence and intimidation

30. The Mission was informed that a climate of widespread political intolerance, fear and politically inspired violence still reigns in South Africa. Although some violence had generally been anticipated, it has in the last few weeks increased beyond the levels expected. While present throughout the country, this violence is particularly acute in Natal province and the East Rand. Fears were expressed in some quarters that political violence in these areas, having exerted heavy tolls on human life and property, could erupt into a full-blown war and jeopardize the April elections.

31. The Mission was informed that the Government was, nevertheless, determined to ensure that elections took place as scheduled. One of the concerns expressed to the Mission was related to the persisting stockpiling by some elements, especially among the right-wing, of arms obtained through Swaziland and Mozambique. The war in Mozambique had resulted in the flooding of South Africa with assorted weapons sold at low prices. The Mission was also informed that the Government had tried to reverse this trend by buying off some of these weapons from the border between South Africa and Mozambique for subsequent

destruction. The Government further stressed that it had, of late, intensified border patrols aimed at discouraging this lucrative arms trade, while the police had offered to buy weapons from those that may have already succeeded in purchasing them from across the borders.

32. Fortunately, fears of a full-blown war resulting from political violence were not shared by the main political actors. Everyone appeared to agree that while political violence, which is likely to target specific individuals, will certainly increase in the run-up to the elections, violent-prone organizations were not sufficiently equipped or armed to engulf the entire country in a full-scale civil war. However, the Mission was informed that a "vigilante" force was being trained and armed in Natal/KwaZulu, and that this might constitute a more serious threat to elections in important areas there. The subsequent revelation by the Goldstone Commission of a destabilization conspiracy to derail the elections, involving senior officials of the South African police, IFP and the KwaZulu police, seems to confirm the seriousness of these concerns.

33. The Mission was also told that there was a real fear of intimidation by those who adamantly refused to take part in the forthcoming elections. The Government has repeatedly given assurances that it would protect all those who intend to exercise their democratic right on the days of voting and would assign that task to the defence forces. The recent events in Bophuthatswana are an indication that the Government's resolve can indeed have a decisive impact. While a majority agreed that the non-participation of key political actors in the elections, particularly IFP and CP, would harm the political process, all seemed determined that the elections should go on with or without them. Considering the distance travelled by the South Africans in the last four years, this appears to be a realistic position. IEC has also reaffirmed its resolve to carry on with the elections. While it was readily agreed that it was the democratic right of people or organizations not to participate in the elections, IEC stated that it would not condone blackmail or intimidation of others into non-participation. It recalled that it had the right, under the Electoral Act, to suspend voting at polling stations where such acts were manifest.

34. The Mission also learnt that not much progress had been made with the establishment of a national peace-keeping force, although its concept was supported by most political actors. The time remaining before the elections was not sufficient to complete the enlargement and retraining of this force. At present, only about 3,000 members were believed to have been trained, a number simply inadequate to maintain order and safety during the campaign and at the nearly 10,000 voting stations across the country. None the less, the idea of a national peace-keeping force is a commendable one, as it represents the beginning of an integration of the various armed forces, which needs to take place after the elections.

F. Constitutional amendment and more inclusive participation in the transitional process

35. In a further attempt to counter the difficulty of getting all the political parties to participate in the forthcoming elections, TEC agreed to significant amendments of the earlier approved interim constitution "even before it comes

into effect, as well as of the 1993 Election Act". 7/ The reason for proceeding in this unusual fashion was clearly stated by President F. W. de Klerk in his speech at the opening of Parliament on 28 February 1994: "It is essential that no one and no party should be able to claim that they are excluded or that their reasonable concerns have not been accommodated in the transitional constitution". 8/ The amendments were therefore adopted to address the fears and concerns of various parties of the Freedom Alliance and to enhance further the legitimacy of the constitution.

36. The concerns of the Freedom Alliance, now largely made up of three organizations, IFP, CP and the Afrikaanse Weerstandbeweging (AWB) the Afrikaner Resistance Movement), and shared by the breakaway Freedom Front, are as follows:

(a) That stronger assurance is needed on the question of autonomy of provinces, their powers, functions and boundaries;

(b) That a future government might try to diminish the powers of the provinces in the final constitution;

(c) That the provinces should be granted greater fiscal and financial autonomy;

(d) That there should be two separate ballots in the election, one for the national parliament and the other for the provincial legislatures;

(e) That the principle of self-determination for ethnic minorities should be included and provision should be made for a mechanism and process to consider the issue of an Afrikaner "Volkstaat";

(f) That the province of Natal should be known as KawZulu/Natal.

37. The amendments to the interim constitution were adopted by Parliament on 28 February 1994, at a session which the Mission was privileged to witness. They largely addressed the major concerns of the Freedom Alliance. Indeed, the leaders of parties engaged in the negotiations that led to these concessions deserve to be commended for making this endeavour in the hope of reaching out to their compatriots.

38. The fact that, despite these amendments, some members of the Freedom Alliance continue to withhold their participation in the elections is a clear testimony that they are simply not interested in such a participation. Their continuing threat of boycott will no doubt hamper the conduct of free and fair elections, especially in areas where the Alliance is strongest. Consequently, the Mission appreciates the commitment made by the Government to "use all the means at its disposal, including the security forces, to deal with any party which might seek to achieve its objectives through violence or through unconstitutional, illegal or undemocratic means". 9/

G. The dialogue between Mr. Nelson Mandela and Chief Mangosuthu Buthelezi

39. While the Mission was in South Africa, the build-up to the widely reported meeting between the leadership of the African National Congress (ANC) and IFP assumed greater proportion. While everyone, in their contacts with the Mission, expressed the hope that the symbolic value of the meeting could help to calm down tensions in Natal, no one believed that it would be a real success. Its positive outcome, therefore, took the country by surprise and left the Freedom Alliance in an unexpected disarray. It will be recalled that the most important outcome of that meeting included:

(a) The acceptance by IFP to register provisionally for the elections, while continuing discussions on other matters;

(b) Exploring the possibilities of international mediation in an effort to resolve the deadlock over constitutional issues;

(c) Agreement to set up a task group to strengthen the Peace Committees. The task group should work out appropriate schedules of joint appearances at political rallies by the leadership of the two parties (ANC and IFP) to demonstrate the value of political tolerance.

40. As indicated, the impact of this meeting was shattering to those elements opposed to the April elections and led to a split in CP. Having failed to meet the deadline for submission of names of candidates, as required by the Electoral Act, IFP, CP and AWB will, regrettably, still not participate in the elections. However, breakaway members of the Alliance, including members of CP, have registered in time under the banner of the Freedom Front and will be participating in the elections.

41. As unfortunate as IFP's non-participation may be, the continuing dialogue between IFP and ANC is important in that it may still be capable of easing the level of violence and thereby enhancing the climate for political activity. Similarly, the lesson of the collapse of the Bophuthatswana leadership, the inability of AWB's forces to prevent it and the decisive intervention of the South African Defence Force (SADF) should be clear signals to those wishing to derail the transition process at this late hour.

H. The role of international observers

42. "UNOMSA is a unique application of preventive diplomacy." 10/ The Observer Mission was established on the basis of Security Council resolution 772 (1992) of 17 August 1992, and the international observers are required to render assistance to the structures set up under the National Peace Accord and to help end the violence, thereby supporting the efforts of the political leaders and people of South Africa in their legitimate struggle for a non-racial, non-sexist democratic society. Indeed, the presence of the international observers in the country has had a significant effect on the lives of average South Africans in terms of reducing the potential for violence.

43. The representatives of UNOMSA, as well as other international observers operating under its original and expanded mandate (Security Council resolution 894 (1994) of 14 January 1994), fully briefed the Mission as to the situation on the ground and outlined their projections as the countdown to the elections commences. UNOMSA is presently subdivided into two divisions corresponding to its double mandate, the first to monitor political violence and thus promote peace, and the second focusing on the elections. Briefing the Mission, the Special Representative of the Secretary-General stressed the significance and complementary nature of these two divisions. He added that the two units cooperate closely and that their daily operations reinforce each other.

44. The work of the observers from other international organizations such as the European Union, the Commonwealth and OAU, is coordinated by UNOMSA. It ought to be pointed out that the international observers are not the organizers of the elections, as was the case in Cambodia and Namibia. However, at the invitation of the relevant authorities and structures, they are actively engaged in all facets of the preparations for the elections. In this context, the international observers informed the Mission that they are currently working to achieve the following objectives:

(a) To help create confidence in and assure the transparency of the electoral process;

(b) To act as a deterrent to individuals and parties who might be tempted to tamper with the process;

(c) To provide domestic and international credibility for the outcome of the elections.

45. The international observers, whose total number is expected to rise to almost 3,000 at the time of the elections, are specifically charged with observing all aspects of the build-up to the election, including organization, voter information and education, campaigning and the election procedure on the polling days as well as the counting of the ballots. The Mission was told that the observers would attend political meetings and rallies as well as observe all aspects of the transition, including the activities of the police and other security forces, and that they would be available to all organizations wishing to discuss with them the transition process and, in particular, the elections.

46. While concern was expressed that the number of the international observers was inadequate in view of the nearly 10,000 polling stations in the country, the UNOMSA coordinating unit indicated to the Mission that observers would be rotated around the country to enable as much coverage of the polling stations as possible. In the areas most prone to violence such as Natal and the East Rand, observers would be stationed more permanently.

47. In addition to these extensive briefings by representatives of the international observers, the Mission visited Port Elizabeth and East London to apprise itself of the concrete arrangements on the ground. The Mission found that, in relatively conflict-free areas such as Port Elizabeth and East London, UNOMSA and other international observers were able to work very closely with

local peace structures without coming under any suspicion from some of the political parties.

III. GENERAL OBSERVATIONS

48. The Mission benefited a great deal from its interactions with the various groups it met while in South Africa. From such interactions, the Mission forged a strong impression of the eagerness of the majority of South Africans to participate in the first ever multiracial elections in the country. In this spirit, they gave indications that they were prepared to withstand the stormy weeks ahead in order to create a new society free of apartheid in which all South Africans, irrespective of their race, can enjoy the prospects of living in harmony as equal citizens of a democratic country.

49. Despite this eagerness and optimism, a lot of concern is still being expressed about the political intolerance which has resulted in persistent violence across the country, in particular in Natal and the East Rand. There was and still is a concern about the determination of some factions of the Freedom Alliance, such as IFP and CP, to boycott the elections, thereby significantly raising the possibility that those who wish to exercise their rights to vote would be subjected to intimidation. The vigorous ejection of white vigilante nationalists from Bophuthatswana may have been a turning point towards holding free and fair elections in the country in April. The decisive action by white and black government forces on behalf of civil order appears to have weakened the resistance to multiracial elections as well as split the radical white separatist groups and isolated IFP and its chairman, Chief Buthelezi.

50. The business community, which has played a proactive role in the multi-party negotiations, has continued to play a vital role in voter education exercises and has demonstrated its commitment to the transition process. This is understandable since, if "the business of business is to remain in business", support for the creation of stable political conditions is essential.

51. Although several NGOs are actively engaged in voter education exercises, the Mission's observation is that the time seems too short for the largely illiterate population, and in particular women in the rural areas, to be reached before the elections. Furthermore, in spite of the confidence expressed by IEC, the realities on the ground in the areas visited by the Mission, and the complexities of the communication and other infrastructural problems in the rural areas of the country, do not easily lend support to its optimism.

52. One of the most problematic issues that may affect the election is the question of identity cards or other documentation for the purpose of voting. Prospective voter figures of 18 to 23 million are conjectural, as it appeared from various accounts, at the time of the Mission's visit that only half of the voters were adequately documented. It remains unclear how the remaining 9 to 12 million people would be able to receive proper documents before the elections.

53. The role of UNOMSA and other international observers has continued to be praised and warmly embraced by all sectors of the country. It is indeed evident that an excellent relationship exists between UNOMSA and other international observers as well as the Peace Committees in several regions of the country (except in the most violent areas of Natal and the East Rand). The presence of the international observers in South Africa has no doubt made a great deal of difference between peace and violence. Indeed, UNOMSA, under the able leadership of Mr. Brahimi and Ms. Angela King, is very well organized and is getting fully prepared for the huge task of observing the arrangements for the electioneering as well as the actual conduct of the elections. The Mission is confident that the presence, organization and commitment of UNOMSA as well as other international observers and their staff is an essential factor in helping to achieve successful democratic elections in the country.

54. Finally, the Mission was impressed by the seriousness, thoroughness and skill with which the members of TEC conducted their work. In its view, this augurs well for a future government of national unity. Furthermore, the Mission commends the political wisdom and flexibility demonstrated by the main participants in the Multi-Party Negotiating Council, who have undertaken significant endeavours, including amending the interim constitution, to encourage those who have chosen to remain outside of that framework to rejoin the electoral process.

IV. RECOMMENDATIONS

55. Based on the above, and taking into account some of the most recent developments in South Africa, the following is recommended:

(a) That UNOMSA, because of its infrastructural and logistical spread, as well as the length of its presence in South Africa, be supported in its role to coordinate the operations of all other international observers, including those from individual Member States, in the run-up to the elections;

(b) That UNOMSA and other international observers, as well as those from individual Member States, should intensify their efforts with regard to voter education, in cooperation with IEC and domestic NGOs;

(c) That the international community should continue to encourage the parties, to the extent possible, to work for all-inclusive elections;

(d) That the international community should not respond to calls for the postponement of the elections, as advocated by parties which are not firmly committed to non-racial and democratic elections. Such a postponement, no matter how brief, is unlikely to ensure the participation of all organizations in South Africa, and would, in our view, lead to an intensification of violence. Furthermore, any deferral would have serious financial implications at a time when there are clear signs of contribution fatigue by the international community;

(e) That the South African Government be urged to ensure, with the support of TEC, that the defence forces take such decisive action as will be needed to

forestall or minimize the level of violence as well as acts of intimidation of prospective voters across the country, especially in areas where levels of violence and intimidation are particularly high, such as Natal;

(f) That the United Nations, in cooperation with international agencies, should proceed with arrangements to convene a resource mobilization/donors conference in the near future, for the benefit of disadvantaged South Africans;

(g) That following one person-one vote elections and the establishment of a non-racial government and a constituent assembly/interim parliament, the General Assembly would need to consider the question of a resumption of the participation of South Africa in its work. In this context, the Assembly may wish to consider holding a special session to evaluate such communication as may have been received from a new government with regard to the question of South Africa's resumption of its seat at the Assembly.

Notes

1/ Institute for a Democratic Alternative in South Africa, Annual Report, 1992.

2/ Consultative Business Movement, Publication No. 14, 21 February 1994.

3/ Statement by Judge Johann Kriegler, International Briefing on South Africa's first democratic and non-racial elections, Brussels, 28 February-1 March 1994.

4/ Consultative Business Movement, Publication No. 14, 21 February 1994.

5/ Ibid.

6/ Ibid.

7/ Statement by Mr. Roelf Meyer, Constitutional Minister, to Parliament, 28 February 1994.

8/ Address by President F. W. de Klerk to Parliament, 28 February 1994.

9/ Ibid.

10/ Statement by Ms. Angela King, Chief of Mission, UNOMSA, Johannesburg, August 1993.

APPENDIX

List of meetings held by the team

Monday, 28 February 1994 (Cape Town)	Meetings with: National Coordinator of IFEE, Father Michael Weeder; Democratic Party leader, Mr. Zach de Beer. Attended Parliament's proceedings.
Tuesday, 1 March 1994 (Cape Town)	Observed proceedings of TEC, chaired by Mr. Zam Titus; meeting with IDASA Executive Director, Mr. Alex Boraine.
Wednesday, 2 March 1994 (Johannesburg)	Meetings with: IEC Chairman, Judge Johann Kriegler and IEC Commissioners Mr. Oscar Dhlomo and Mrs. Dawn Mokhobo; Chairman of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, Justice Richard Goldstone; BEF representative, Mr. Colin Coleman.
Thursday, 3 March 1994 (Johannesburg)	Meetings with: Deputy Minister for Constitutional Affairs, Mr. F. Schoeman; Special Representative of the Secretary-General for South Africa, Mr. Lakhdar Brahimi; Special Representative of the OAU Secretary General, Ambassador Legwaila; Ambassador von Stulpnagel, Mr. Marshall and Mr. de Ruiter, representing respectively the European Community Observer Mission in South Africa, the Commonwealth Observer Mission in South Africa and the European Union; Mr. Thabo Mbeki, Chairman of the ANC; PAC President Mr. Clarence Makwetu and Foreign Secretary Mr. Gora Ibrahim; representatives of the Matla Trust, Mr. Terrence Tryon, Mr. B. Modise and Mr. Victor Ntojope; National Peace Secretariat Chairman, Mr. Antonie Gildenhuys.
Friday, 4 and Saturday, 5 March 1994	Visits to East London and Port Elizabeth and meetings with UNOMSA-coordinated observer teams and local Peace Committees.

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LETTER DATED 4 APRIL 1994 FROM THE PERMANENT REPRESENTATIVE OF TURKEY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to refer to paragraph 6 of your report of 4 March 1994 (S/1994/262) on your mission of good offices in Cyprus, in which reference is made to "Turkey's acceptance ... of the package of confidence-building measures".

As you are aware, Turkey's attitude in connection with the package of confidence-building measures has always been expressed in terms of "support" rather than "acceptance", while its role has been to "encourage its acceptance". This is also evident from paragraphs 33 and 50 of your report of 1 July 1993 (S/26026), paragraphs 14 and 19 of your report of 14 September 1993 (S/26438) and paragraph 104 of your report of 22 November 1993 (S/26777).

Furthermore, in their conversations with the United Nations representatives on this subject, Turkey's officials have always expressed "support in principle" for the package. This was also the case at the meeting between my Minister, Mr. Hikmet Çetin, and the Special Representative of the United Nations Secretary-General in Cyprus, Mr. Joe Clark, held on 28 January 1994 in Istanbul.

Indeed, Turkey has always supported the package of confidence-building measures in principle and encouraged its acceptance. You will appreciate, however, that Turkey's role does not extend beyond such support and encouragement, to the point of acceptance or rejection. The wording of paragraph 6 of the report of 4 March 1994, therefore, is misleading, since it creates the wrong impression that Turkey is a party to the process concerning the package. It is important to note that it is the two sides in Cyprus which are parties to the process both with regard to the package of confidence-building measures and the Secretary-General's mission of good offices.

I feel obliged to send this letter to you since our initiatives with the Secretariat to have the corrigendum published accordingly have been unsuccessful.

I would greatly appreciate it if you could have this letter circulated as a document of the Security Council.

(Signed) İnal BATU
Ambassador
Permanent Representative

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THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT
OF A FIRM AND LASTING PEACE AND
PROGRESS IN FASHIONING A REGION
OF PEACE, FREEDOM, DEMOCRACY
AND DEVELOPMENT

SECURITY COUNCIL
Forty-ninth year

Note by the Secretary-General

The attached document contains the report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) covering the period from 1 November 1993 to 28 February 1994. As will be recalled (see S/23999, para. 3), it was decided that the work of ONUSAL in relation to the San José Agreement on Human Rights (A/44/971-S/21541, annex) would continue to be the subject of a separate series of reports.

* A/49/50.

Tenth report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador

(1 November 1993-28 February 1994)

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I. INTRODUCTION

1. In order to provide the Secretary-General with a broad overview of developments in the human rights situation in El Salvador during the pre-election period which culminated on 20 March in the elections to the Presidency of the Republic, the collegial bodies and the municipal mayoralties, the first to be held in the country since the peace agreements (S/23501, annex), the present report analyses the period from November 1993 to February 1994.

2. The active verification of human rights is a part of the provisions adopted by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) in order to implement the peace agreements, which comprise a great number of commitments linked directly or indirectly with the subject of human rights. Verification is substantively carried out in relation to the fulfilment of the San José Agreement on Human Rights, signed on 26 July 1990 (S/21541, annex). This is in addition to human-rights-related commitments which are part of the other political agreements comprising the overall framework of the peace process, especially those involving judicial reform, reforms in the armed forces and the establishment of the National Civil Police, as well as the recommendations made by the Commission on the Truth and those formulated by the Human Rights Division.

3. The ensemble of commitments contained in these agreements and recommendations include several dozen specific objectives which, together, are gradually generating conditions for the enjoyment of human rights in El Salvador which are different from those that existed in the past. In their totality, these human-rights-linked commitments thus constitute the most substantive and most far-reaching process for the promotion and protection of human rights to have been carried out to date in a country which is a Member of the United Nations. This is largely to the credit of the Salvadorian people, the Government - in whose name, given the structure of the State system, the great majority of the commitments have been undertaken - FMLN and the other political forces in the country represented in the National Commission for the Consolidation of Peace (COPAZ), the national organ supervising the execution of the agreements.

4. With this in mind, the Human Rights Division must point out that the specific development of the situation of each one of the rights under verification must be evaluated and interpreted on its merits, and also in the context of the peace process, which is itself the most transcendent and decisive choice ever made in the country's history to build, by means of consensus, dialogue and negotiation, a State based on the rule of law, whose institutions express respect for human rights and the free exercise of democratic life. From the perspective of the international system, it is an entirely new process in the history of United Nations peace-keeping activities, the grandest and vastest operation for the promotion and protection of human rights ever undertaken by any Government with the endorsement and validation of the international community.

II. ANALYSIS OF THE SITUATION FROM NOVEMBER 1993 TO FEBRUARY 1994

A. Overall assessment of the situation

5. In my ninth report to the Secretary-General, I noted that the human rights situation in El Salvador during the months of August, September and October "took a serious turn for the worse between August and October" (A/49/59-S/1994/47, annex, para. 4). In analysing the overall situation, I said that "a composite analysis of developments in the human rights situation during the past 10 months makes it possible to discern two quite distinct phases. The first phase covers the period from January to May, during which the situation evolved unevenly, with strengths and weaknesses; there was a clear downward trend in the commission of such acts as forced disappearance or torture, and an improvement in the overall political [and juridical] situation. The second phase, covering the period from June to October, was marked by a progressive worsening of the situation leading to a grave deterioration of the situation in October, characterized by an upsurge of selective violence against citizens who were openly engaged in politics, as well as death-squad-style murders" (ibid., para. 86).

6. Analysing the situation during the period from August to October, I stated that "the current violence is directed against the democratic political system which has been worked out by the Government and FMLN, with the support of all political forces, with the aim of building up through consensus the rule of law and a stable and functioning democracy. Thus, the acts of political violence which have occurred during the period covered by this report reflect the intransigence of fringe elements attacking the Salvadorian nation as a whole, all national political forces and the democracy proposed in the peace agreements. The Human Rights Division must state that, in the active verification process it has conducted in investigating the cases referred to it, it did not find any indication or evidence of any institutional involvement of the State in these violations. Therefore, it can affirm that they do not compromise the Government as an institution; on the contrary, this selective violence seems to be directed against all democratic political forces, including the Government of El Salvador itself, which, as a party to the agreements to which the substantive obligations of the peace process were assigned, has taken historic steps, together with FMLN and the other political forces in the country, towards the progressive establishment of an effective democratic political system based on the rule of law" (ibid., para. 16).

7. The acts of violence described in the ninth report constituted a sort of decisive test of the vitality of the peace process and of the will of the parties, especially the Government of El Salvador, to ensure that the law is being observed in respect of human rights. The response of the State, society and the international community has been generally positive. It has been expressed, in the first place, in the Government's invitation to foreign investigators (Scotland Yard, the Federal Bureau of Investigation and the Spanish police) to participate in the investigations together with a governmental inter-agency commission so as to further the corresponding police

inquiries. And secondly, by the constructive attitude adopted by the Government, as well as by FMLN, in the process of consultations which led to the organization of the Joint Unit for the Investigation of Illegal Armed Groups having Political Motivations, whose establishment was suggested by the Secretary-General to comply with the relevant recommendation of the Commission on the Truth.

8. The Joint Unit, comprised of Mr. Carlos Mauricio Molina Fonseca, the National Counsel for the Defence of Human Rights, Messrs. José Leandro Echeverría and Juan Jerónimo Castillo, representing the President of the Republic, and Mr. Diego García-Sayán, director of the ONUSAL Human Rights Division, has now begun its activities with the financial collaboration of a group of friendly countries. Its activities are being carried out with the most absolute freedom of action and autonomy; on the level of civil society, the response has also been encouraging since all national sectors, institutions, churches and political forces have expressed their unanimous rejection of any form of violence, especially that which could be politically motivated. In this regard, the candidates for the presidency of the Republic have expressed their intention to support and respect the investigations of the Joint Unit, as well as to implement the peace agreements whatever the outcome of elections.

9. At the same time, the Human Rights Division of ONUSAL proceeded, in accordance with the provisions of the San José Agreement, to carry out the corresponding investigations, especially those connected with the deaths of the FMLN leaders Francisco Vélis Castellanos, Eleno Castro and José Mario López Alvarenga, as well as the attempt perpetrated on 24 February 1994 on the life of Marta Valladares (Nidia Díaz, former commander of FMLN).

10. The investigation into the death of Francisco Vélis Castellanos is not yet complete. Nevertheless, given the characteristics of the crime, the likeliest explanation seems to be that it was politically motivated. Following investigation into the other cases, it has been determined that the murder of Eleno Castro was a criminal act resulting from an altercation and that responsibility can be attributed to common criminals; and that the killing of José Mario López Alvarenga, according to the current status of the investigations, could have been triggered by an unrelated incident, in that the FMLN leader now appears to have been killed when he went to the defence of an elderly woman who was being attacked by common criminals on leaving a bank.

11. The basically encouraging responses to the grave situation of the previous three months, the findings of some of the investigations, and the developments over the course of the four months (November, December, January and February) analysed in this report do not, on the whole, suggest that the grave deterioration described in the ninth report is continuing at the present point in time; rather, the characteristics of the overall trends of the process seem to be reasserting themselves. In sum, the November-February period shows a certain improvement, in contrast to the serious problems warned of in the ninth report.

B. Review of active verification of the human rights situation

1. Right to life

12. The Human Rights Division has repeatedly drawn attention to the complex character of the interrelationships between ordinary crime and complaints of arbitrary or extra-legal executions which have been declared admissible. This points up the need to clarify certain categories of analysis peculiar to international human rights law. In this regard, it seems necessary to reiterate the conceptual elements of the definition of extra-legal or arbitrary executions that is used by the Human Rights Division in its active verification work.

13. An assumption of common understanding can lead one to the mistake of categorizing as extra-legal or arbitrary execution only deaths deliberately caused by the State apparatus with political motivations. Although it is true that such deaths clearly constitute extra-legal or arbitrary executions, or even summary executions, the conceptual approach adopted in the various instruments of the United Nations and in the practices of its different protection mechanisms indicates that the concept is much broader, in that it includes deaths caused by agents of the State without political motivation, due to excessive use of force or to imbalances between the means used to control certain situations and the actual nature of those situations, as well as deaths or killings caused by illegal organizations which may be acting on their own or in association with agents of the State.

14. Applying this comprehensive definition of extra-legal or arbitrary executions to El Salvador necessarily means taking into account certain particular traits that violence, as a social phenomenon, assumes in the transitional period that the country is currently undergoing. Common violence has increased; in many cases, it is carried out in an organized manner by criminal groups, the majority of which have military weapons. In more than a few cases, such criminal groups are made up of former FMLN combatants and former members of the armed forces, who possess military weapons issued only to members of the armed forces. Considering that many bloody acts were committed during the war, especially in local communities, where identification of the perpetrators was likely, it may be assumed that there will be crimes involving a "settling of scores" for acts that occurred during the war. This assumption, which the verification process appears to have confirmed, introduces a factor of greater complexity since there could be murders involving "private political motivation" in which there would not be any active and direct responsibility of the State or of its agents.

15. These factors, which arise as residual effects of the war, could help to explain some murders in which the victims were or had been connected with FMLN or with the armed forces.

16. We are not trying to suggest that all or most of these cases fall into the special category of "private political motivation". As the armed forces themselves affirm, recorded cases of armed forces victims include acts "attributed to common crime, to fortuitous circumstances or to political motivations" (Ministry of Defence report on assaults, murders and killings of

armed forces and national police personnel, December 1993). Nevertheless, it appears to be an explanatory factor which cannot be ignored.

17. Likewise, over the last 7 months, the FMLN has reported 22 murders and 6 attempted murders of members of that political organization; and more than 80 per cent of these cases involved former combatants and core militants.

(a) Deaths resulting from the violation of juridical guarantees and arbitrary or extra-legal executions

18. During the reporting period, 55 complaints of arbitrary or extra-legal executions were declared admissible, which is more than the number registered during the previous period. Active verification has established that a large number of these cases were actually common crimes. Others show signs of political motivation. During the period covered by the present report, there were no further killings similar to those that drew national and international attention in the previous trimester.

19. On 23 December 1993, the ONUSAL Human Rights Division made public the findings of its investigation into the murder of FMLN leader Eleno Castro, noting that "this was a killing that resulted from an argument following a vehicular collision" (see the communication from Human Rights Director in the case of Eleno Castro Guevara, 23 December 1993). A detailed account of the findings is included in an addendum to this report.*

20. In contrast, the investigation into the killing of Ernesto Vélis, also an FMLN leader, has not progressed far enough to have produced substantive data that would permit a provable hypothesis to be established. The work of the Interinstitutional Commission has been leaning towards an investigation based on the supposition that the killing was of an isolated, common criminal nature, but this approach has yet to yield significant results. The hypothesis of a political motivation for the crime has still not been sufficiently investigated. For its part, the Human Rights Division is continuing to pursue its inquiries in the case and is not ruling out any hypothesis, although the possibility of a political motivation seems the most likely. Interestingly enough, Scotland Yard, which participated in the initial phase of the investigation under the auspices of the Interinstitutional Commission created by the Government, has noted that the crime could have stemmed both from motivations of common criminality and from political factors. In any case, the conclusions reached by Scotland Yard as a result of its investigations strongly indicate that the killing of Ernesto Vélis was premeditated, and was not the result of a foiled attempt at car theft.

21. In the ninth report, the Secretary-General was informed of the attempted execution of José Gabriel Quintanilla, who died of his wounds on 23 February.

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* The document may be consulted in room S-3560.

In spite of the fact that the Commission for the Investigation of Criminal Acts carried out the requisite investigation, which enabled the identification both of those materially responsible for the crime and of an eyewitness, and despite the fact that the suspects were already in custody for other crimes, the criminal court of the first instance at Chinameca has not pursued the investigation of this case, which by its characteristics would appear to have had a political motivation.

22. The following cases of reported extra-legal or arbitrary executions were verified on a priority basis during the period covered by this report.

23. José Mario López Alvarenga, a former commander of the Partido Revolucionario de los Trabajadores de Centroamérica (PRTC)-FMLN, member of that party's Political Committee candidate for the Legislative Assembly and the Central American Parliament, died on 9 December while coming to the defence of an elderly woman who was being assaulted in a street in San Salvador. The investigations conducted thus far by the ONUSAL Human Rights Division tend to confirm the supposition that this was not a politically motivated crime, and was perpetrated by common criminals who had not planned to kill the victim.

24. Siméon de Jesús Cartagena Pineda, member of FMLN's Ejército Revolucionario del Pueblo (ERP) and a promoter of the Federación de Cooperativas de la Reforma Agraria Región Central (FECORACEN), was murdered at his home in the early morning of 10 January along with his 13-year-old stepdaughter in Colonia Las Moras de Colón, in the Department of La Libertad, by two armed intruders. His wife, María Mercedes Pérez, suffered serious bullet wounds. Active verification has established that the murders were committed in association with the theft of some possessions of little value. The Human Rights Division is nevertheless continuing to investigate the case. The victim's political affiliations, the family's poverty, and also the value of the objects removed and the means employed to carry out the crime leave doubts as to whether the motive was robbery.

25. Saúl Antonio Alas was abducted within 100 metres from his home on 30 November by men in civilian dress who put him into a white vehicle with polarized windows. The victim was executed at 6.30 p.m. that same day, at the entrance to the Batista farm in the canton of Santa Lucía Los Palones, in Panchimalco. Nearby residents stated that they saw three people get out of a white vehicle with tinted glass and fire at a man whose hands were bound and eyes blindfolded. During the investigation, and according to the declarations of the victim's sister, Inés del Carmen Alas, it was learned that the victim had been a PRTC-FMLN combatant between 1982 and 1985 in el Cerro de Guazapa, and had been held for seven weeks in Mariona prison for political reasons. The victim had recently joined the Treasury Police as a detective.

26. José Alfredo de Jesús Portillo, demobilized former combatant of FMLN was killed on 30 November in the hamlet of Las Piscinas, Hacienda Sicasa, near Mercedes Umaña. The killing was carried out by two hooded persons armed with M-16 rifles who fired on the victim without saying a word. At the time of the attack, José Alfredo de Jesús Portillo was working with another person in a sesame field.

27. The investigation led to a suspect answering to the name of Reinaldo Soriano, who had continual conflicts with the victim. He is a former member of the armed forces who served in the Army from 1982 until 1985 when he is said to have deserted. He has a history of disorderly conduct, for which reason he was rejected from the land transfer programme. This information was obtained through inquiries among the populace of neighbouring areas. Moreover, there had been a history of conflict between the two since Reinaldo Soriano had assaulted the victim on several occasions, including entering his home to steal a small sum of money and a sack of corn, as well as making several threats against him. The existing evidence thus supports a hypothesis of common crime.

28. José Santos Vásquez Henríquez was killed on 14 November, presumably by personnel from the Third Military Detachment, in the Department of La Unión. In their rapid and efficient investigation of this crime, the National Civil Police were able to obtain the testimony of eyewitnesses implicating soldiers who had been carrying out patrol duties in the Cantón Loma Larga district. The National Civil Police then handed the investigation over to the judicial branch, which thereupon opened homicide proceedings. The commander of the Third Military Detachment placed the soldiers involved at the disposal of the judicial branch. This case is significant because of the efficiency of the investigation carried out by the National Civil Police and the conduct of the commander of the Third Military Detachment, who, acting in strict accordance with legal requirements and in a spirit of institutional cooperation, placed the personnel presumed to have been involved in the killing at the judiciary's disposal.

29. Mauricio Ernesto Alfaro, Carlos Ramírez López, Enrique Guevara, Cristian Salguero, Carlos Antonio Carrillo and Luis Aguilar were killed between 8 and 8.30 p.m. on 11 December, in a place called Cuesta Carranza in Colonia Los Olivos, Primavera de Santa Ana canton. They were all residents of that canton. The first four were finished off with shots from M-16 rifles, and were left lying beside one another. The bodies of the other two victims were found two blocks away; their throats had been slit and they had stab wounds in the back. Their hands showed signs of having been bound and one of them still had a knife in his neck. On the day these acts took place, the National Police of Santa Ana, with the support of a rapid-deployment unit of the Army based in San Salvador, completed an anti-crime operation called "Operation Estrella" in the region, which resulted in the detention of 175 persons including army sergeant Adán de Jesús Alvarado Acevedo, army driver Rafael Antonio Cardona Guerrero (both with the Cavalry Regiment based in La Libertad), and Miguel Angel Alvarado, brother of the above-mentioned sergeant. According to the National Police account, these persons were detained for illegally carrying military weapons.

30. A few hours after these acts took place, ONUSAL received the testimony of a person (whose identity is not being revealed) who claimed to have been detained and taken with the others to the place called Cuesta Carranza to be executed. It was only through a personal circumstance that his abductors were dissuaded from killing him, but the six victims were not so lucky. That same day this witness, accompanied by ONUSAL observers, went to the National Police, to file a complaint and he there identified his abductors and those who had carried out the execution among those detained in "Operation Estrella".

31. At the police precinct, ONUSAL observers interviewed the persons implicated who identified themselves as active-duty members of the cavalry regiment and claimed, in regard to these acts, that they had been carrying out a mission entrusted to them by Major Varona Pineda, and that their weapons had been provided by Sergeant Lizandro Palacios Escobar. Likewise, they indicated that they had been in the canton to "spy on" a local dwelling. In fact, ONUSAL was later able to establish that at 9.15 p.m. that same day, or approximately 45 minutes after the executions, the house of FMLN political leader Israel Morán had been searched, and that the identity documents of the victims and of four survivors had been found there.

32. The judicial investigation, which was started by the Third Justice of the Peace in Santa Ana, and continued by the Third Criminal Court of that city, established that the M-16 rifles which had been used to kill four of the victims were the same as those subsequently confiscated from the accused by the National Police.

33. Moreover, it is stated in the judicial record that the accused Alvarado Acevedo and Cardona Guerrero had been on active duty in the cavalry regiment of this unit until 15 December 1993, when they were discharged because they had been taken into the custody of the judicial authorities. It is also stated that Sergeant Elizandro Palacios Escobar assigned the two M-16 rifles on 22 November 1992. The evidence attached to the record further states that Sergeant Alvaredo is detailed for intelligence-gathering duties in the San Salvador volcano region, as evidenced by the orders of the staff of the Second Mechanized Battalion of the Cavalry Regiment.

34. In the official statements the accused contradict what they told ONUSAL observers on the day of the incidents. In those statements, the accused claim to have been in Primavera canton to attend a family wedding, and deny that they were there for purposes of spying as stated above. Moreover, they signed a deposition stating that the weapons had been found in the home of Sergeant Alvarado when the National Police searched it after his arrest (it should be noted that the Sergeant's home, located on San Antonio farm in Las Aradas canton, is more than 30 minutes by car from Primavera canton). Finally, they denied any participation in the execution of the six victims.

35. The Third Criminal Court asked the military command to state what specific duties the accused had been assigned. Since a reply was not immediately forthcoming, the ONUSAL Military Division asked the general staff of the armed forces for information, and was informed that because of the existence of a criminal gang operating in Primavera canton, Sergeant Alvarado had been authorized to "get busy in this zone", and also to arrest the persons who had stolen 32,000 colones from his father. However, it appears that the command had not authorized him to use weapons, notwithstanding what is stated in the last point in the judicial record. No mention is made by the general staff of any intelligence-gathering being carried out on the San Salvador volcano.

36. In the days following these events, ONUSAL obtained information that three other persons had been seized along with the six victims, and for different

reasons they had been able to save themselves from execution. It has been difficult to locate them (all have changed residence), and to gather evidence.

37. A communication from the Alianza Republicana Nacionalista (ARENA) party reported the murder of the party's treasurer, Miss Velmy Guzmán, on 7 February in Ciudad Barrios, department of San Miguel. Verification carried out by the Human Rights Division in coordination with the local National Civil Police, indicates that the incident occurred while the victim was driving with her father, Mr. Carlos Guzmán on the highway from Ciudad Barrios to Chapeltique; they were intercepted by six heavily armed men who fired on the victim when they saw that she and her father were trying to get away.

38. On the night of 29 December 1993, Rubén Eduardo Vanegas, Santos Vanegas and Lorenzo Cabrera were arbitrarily executed in their home in Ochupse canton, on the El Cedro farm in the department of Santa Ana. Four armed persons came to the house of Mr. Rubén Eduardo Vanegas, former ERP member and current FMLN leader in the canton, shouting his name and threatening to kill the entire family with a bomb unless he came out. Mrs. Santos Vanegas, Rubén Eduardo's grandmother, tried to speak to the group but was immediately shot and killed. A few minutes later, his grandfather, Mr. Lorenzo Cabrera was executed in a similar manner. In order to avoid a possible attack on his wife and three minor children, who were inside the house Vanegas came outside and was immediately gunned down and his throat was slit. As he lay bleeding, one of the attackers carved a letter "M" in his chest with a knife (in the past, the letter "M" was the signature used by a death squad known as "la mano blanca").

39. One month before his death Rubén Eduardo Vanegas had felt threatened by elements of the National Police and had filed a complaint accordingly. The way the killing was carried out does not suggest a common criminal objective, and there are serious indications that the Vanegas murder was carried out with a political end in mind.

40. José Luis Chicas Martínez and José Alfredo Bonilla Cruces, members of the National Police, were murdered in San Salvador on the morning of 1 December 1993, after having been abducted by two unknown individuals who were travelling in a stolen Toyota. The victims were abducted from a machine shop on the same day as their murder by several armed persons, who forced them to get into the vehicle. According to eyewitnesses, the perpetrators of the double murder had committed assaults some days before the murders, at which time they had identified themselves as police officers. The information and eyewitness testimony gathered by ONUSAL show that the possibility of political motivation in these acts is practically nonexistent. The evidence would appear to indicate that the murders may have been part of a settling of scores connected with criminal acts possibly involving members of the armed forces.

41. René Alonso Tenorio, member of the ARENA youth wing and son of José Carlos Tenorio, the current mayor of San Sebastian Salitrillo, was murdered on 20 February in Colonia San José Unida, located on the old highway from Santa Ana to San Salvador. ONUSAL began an official verification of the case, not ruling out the possibility of political motivation for the killing, which was publicly denounced by parliamentary representatives of the ARENA party as being the

responsibility of members of the FMLN. Nevertheless, it has been established that the perpetrators of the killing were four of the victim's relatives, who had acted purely on the basis of a family quarrel. The Second Criminal Court of Santa Ana issued a warrant for the arrest of the four suspects.

42. José Francisco Rodríguez Meléndez was killed at 4.45 p.m. on 2 November 1993 by unknown individuals who machine-gunned the vehicle in which he was riding with a female friend. His car was cut off by a red pick-up from which two armed individuals emerged, one of whom headed towards the victim's vehicle. Victim and attackers immediately began to exchange shots. In an attempt to escape, the victim got out of his vehicle but was chased down and finished off with a coup de grace sixty metres away. The victim worked for the recruitment and reserves office of the armed forces. Despite the fact that the motives and identity of those responsible have not been clarified, ONUSAL interviews with the victim's female friend and the judicial authorities indicate that Rodríguez Meléndez may have been involved in activities of a criminal nature.

43. Saturnino Díaz Claro, a soldier with the Sixth Brigade based in Usulután, was murdered in the city of Usulután, Colonia el Paraíso, on 16 November 1993 by five shots from a .38 calibre weapon fired at point-blank range. Legal investigation procedures in connection with this killing have not progressed beyond the initial stages, and no major information has been uncovered. In an interview with ONUSAL observers two and a half months after the murder, Díaz Claro's long-time companion claimed to have no information regarding his death; ONUSAL verification has produced no clarifying results either. Nevertheless, this murder appears to have no political implications.

44. Carlos Alberto Marín, ARENA militant, died of bullet wounds he suffered in an attack in front of his home in the city of Cojutepeque on 12 February. ONUSAL learned of the incident through the communications media, which included his name in a list of ARENA members claimed to have been victims of political violence.

45. ONUSAL verification revealed that the victim, who was primarily preoccupied with his business, had quarrelled with two other local merchants. One week before his death, he filed a complaint against one of them, José Fuentes, alleging that he had publicly threatened him with a pistol. In their statements, both to ONUSAL and at the trial, members of Marín's family held Fuentes and the other merchant responsible for Marín's death.

(b) Attempted arbitrary or extra-legal executions

46. Marta Valladares (Nidia Díaz) former Commander of PRTC-FMLN, was the victim of an attempted arbitrary execution on 24 February 1994. At 7 a.m. on that day she left home in a Toyota van with tinted glass belonging to the chief of the FMLN campaign, Rogelio Martínez, to go to Bautista Hospital where she was to have a minor surgical operation. The driver of the vehicle, Santiago Cruz Elías Pineda, left her at the hospital in the company of a bodyguard; he went to cash a cheque and later went back alone to the former Commander's house. On the way, he noticed that another vehicle, a white Toyota

with tinted glass, was following him, but believed he had managed to lose it. At about 9.30 a.m., as he arrived at his destination, the vehicle was fired upon by three men travelling in the vehicle that had been following him some minutes before; they opened the side doors and opened fire, aiming mainly at the back of the vehicle where Nidia Díaz was assumed to be. Elías Pineda, who drove off the attack, was slightly wounded. Information obtained thus far, and the circumstances of the attack, support the hypothesis that it was politically motivated and that the attackers believed that Nidia Díaz was inside the car. It is not possible, however, to rule out other possibilities which are being investigated by the Human Rights Division.

47. Rubén Osvaldo Escalante, the ARENA candidate for the town council of San Marcos, was attacked on 5 February by five masked individuals who stabbed him with a knife, leaving him seriously injured. On 15 February an ARENA deputy denounced the presumed criminal attack against Rubén Escalante in the media. Mr. Escalante informed ONUSAL that he had been attacked after surprising two unknown men who had broken into his house and had been going from room to room for several minutes before being intercepted by him. One of the intruders, on seeing Escalante, attacked him with a knife without uttering a word. The assailants fled empty-handed. The victim maintains that he cannot say for certain that the incident was politically motivated but that there were very strange circumstances: for example, nothing was stolen, the attackers were carrying knives rather than firearms, and also the incident occurred at the same time as other instances of aggression against members of ARENA. Moreover, during the last electoral campaign, another similar criminal act had been perpetrated against him and his family. On the basis of information obtained to date, the Human Rights Division considers that there is little real evidence to suggest that this was an ordinary crime, in other words an attack by criminals who were caught in the act while attempting to rob the victim's house. Accordingly, the possibility that the offence was politically or personally motivated cannot be ruled out.

48. Juan Antonio Villalobos, candidate for alternate deputy of ARENA for San Salvador, was shot in the leg when four unknown individuals came to his home in San Salvador on 14 February and tried to steal his vehicle. According to the victim, one of the attackers pointed a gun at him and asked for the key of the vehicle; then they asked him if his house was open and tried unsuccessfully to force the door of the house. The victim thought they were going to abduct him because of his political position and, when one of the criminals snatched a gold chain from around his neck, he therefore ran to the corner shouting for help. One of the individuals fired at him, wounding him in the leg. Because of the disturbance caused by the shouting and gunshots, the criminals did not pursue him, and fled taking the gold chain but leaving the vehicle. That same day, an ARENA deputy denounced the attack as an act of politically motivated violence, claiming that the attackers' principal motive had been to cause serious injury to the victim. The latter, however, stated that he did not believe this to be a political incident but an ordinary crime, and his account of the events differed on various points of substance, with the one that was denounced publicly.

(c) Death threats

49. The statistical report shows that 77 death threats were recorded during the period covered by the report. This is the highest figure of any period in 1993 and 1994 and is thus an extremely disturbing indicator. It appears to be attributable to two factors. On the one hand, the increase in criminality, especially organized acts including abductions and threats, and, on the other hand, the electoral context, seems to have prompted use of these practices, particularly against leaders and militants of the opposition parties. Despite their seriousness, the threats have so far not been put into effect, which would seem to indicate that their main purpose is to intimidate.

50. The Human Rights Department of the Ministry of Defence filed a complaint with ONUSAL regarding death threats against Manuel Antonio Recinos, a member of the Special Military Security Brigade. Attached was a copy of the written threat received by the complainant entitled "Communication from ERP", and supposedly signed by FMLN on 16 October 1993, which was left at his home in the municipality of Mercedes Umaña, Department of Usulután.

51. The note, which is typewritten, is fairly general and rhetorical in content and makes clear reference to the intelligence work which the victim is supposed to have carried out during the conflict "which caused the death of so many innocent people". The next sentence urges the recipient to support "FMLN Convergencia Democrática" in the forthcoming elections. It lists the journeys on which the victim might be at risk and gives him 55 days "to decide whether to live or die". In addition, the note states "we started with your brother and you may be next", a clear reference to the victim's brother, Mario Rutilio Recinos, who was assassinated in August 1993 in circumstances that have not yet been fully clarified.

52. The Human Rights Division is continuing to investigate the case which was opened after the assassination of Mario Rutilio. It appears from the verification that the motive was the theft of 6,000 colones that had been lent to him that very day. The principal murder suspects are two other soldiers who were seen with him on the day of his death. It is suggested that the killers may now be acting against the brother for reasons connected with the investigation into the death of Mario Rutilio Recinos. When questioned directly about possible political contacts which might have left his dead brother or himself open to some form of persecution by FMLN, he replies in the negative. He considers that his and his dead brother's functions in the armed forces are not such as to attract political vengeance.

2. Right to integrity of person

(a) Torture

53. In the period covered by this report five complaints of torture were recorded; after being actively verified by the Division, none of them was substantiated. This is undoubtedly encouraging, particularly if it is borne in mind that during the previous period, from August to October, three cases of torture were substantiated upon verification.

(b) Ill-treatment

54. During the four months covered by this report, 40 cases of ill-treatment were recorded; 27 of them were filed during the months of November and December; thus, the number of complaints continues to decline, although slowly. It was pointed out in the ninth report that if the slight downward trend in cases of ill-treatment were confirmed in the next few months "it could eventually become a steady trend towards a decline in this type of violation". Ordinary arrests in the period covered by the study point in that direction. One important factor in the relatively lower number of complaints of ill-treatment might be the deployment of the National Civil Police.

(c) Excessive use of force

55. Violations of physical integrity due to excessive use of force imply that despite of the fact that the use of force is legitimate in principle, the force used by the official was disproportionate. In this context it is essential that the personnel of the National Civil Police, and of the National Police until such time as it is dissolved, display a high standard of professionalism with regard to the appropriate use of force in police work, particularly in the use of their official weapons.

56. During the period covered by this report, 19 complaints of the use of excessive force were submitted to the Division, continuing the trend recorded in earlier periods.

57. Almost all the complaints reported were substantiated on verification and show regularly recurring patterns of conduct. . One representative instance of this police behaviour is the following: on 8 December 1993, when members of the National Civil Police were carrying out an operation in Ilopango, Department of San Salvador, in connection with a suspected abduction in San Vicente, a lorry driver, José Alex Orantes, failed to stop when signalled to do so by the policemen carrying out the operation because he thought he was being attacked. He was pursued and, just as he was stopping, was wounded by a shot fired by one of the policemen in spite of the fact that he was obviously unarmed.

3. Right to security of person: enforced or involuntary disappearances

58. During the period under review three cases of enforced disappearance were reported. However, inquiries made by the Human Right Division established that in none of the three cases had any one disappeared. The whereabouts of the presumed victims were ascertained, in the course of the inquiries, as were the circumstances that gave rise to the complaints, and none of the cases can be described as an enforced disappearance. There were therefore no disappearances during the period, thus confirming the positive trend under this heading. The fact that there have been no enforced disappearances in El Salvador for a total period of 20 months is undoubtedly a positive factor attributable to the peace agreements.

4. Right to liberty: arbitrary detentions

59. The Human Rights Division verifies human rights in El Salvador on the basis of international human rights law and the universally accepted principles for safeguarding and protecting those rights, within the framework of the mandate conferred on the Government and FMLN by the San José Agreement.

60. In this context, for the verification of the right to personal liberty and, more specifically, for the verification of complaints received concerning arbitrary or illegal detentions, the Human Rights Division defines its intervention in terms of the relevant international instruments, in particular: the International Covenant on Civil and Political Rights, which provides in article 9, paragraph 1: "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law"; the American Declaration of the Rights and Duties of Man which provides in the first paragraph of article XXV that "No person may be deprived of his liberty except in the cases and according to the procedures established by preexisting law"; and the American Convention on Human Rights which provides in article 7, paragraph 2 that "No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto".

61. In relation to administrative detention, the Human Rights Division starts from the position that, even if such detention is accepted under international human rights law, it must be applied within strict legal limits so as to prevent its improper use to the detriment of human rights, since it is a practice offering fewer safeguards than judicial detention. Similarly, the Human Rights Division endorses the terms in which administrative detention was defined by the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights which stated that detention is administrative detention "if, de jure and/or de facto, it has been ordered by the executive alone and the power of decision rests solely with the administrative authority, even if a remedy a posteriori does exist in the courts". 1/

62. Administrative detention in El Salvador is regulated by the second paragraph of article 13 of the Constitution which provides that: "Administrative detention shall not exceed 72 hours, within which time the detainee must be handed over to the competent court, together with the results of whatever proceedings may have been taken." Referring in article 14 to administrative trial and penalties, it further provides that the judiciary is the only organ with the power to impose penalties. Nevertheless, by decision or ruling after a trial, the administrative authorities may punish infractions of laws, regulations or ordinances by up to 15 days' of detention or by a fine, for which an equivalent period of detention may be substituted.

63. As for secondary legislation pursuant to the third paragraph of article 243 of the Code of Criminal Procedure the auxiliary organs may arrest a person, even without a judicial warrant, on the basis of a written, reasoned warrant, subject to immediate judicial review. However, there is no act that states specifically which administrative authorities are empowered to order or to execute detention warrants.

64. On the other hand, the 1886 Police Act provides that mayors shall be competent to hear and punish petty misdemeanours (faltas de policia). However, the Municipal Code, in spelling out the specific functions of mayors, makes no mention of the function of hearing and punishing petty misdemeanours, nor does it establish a list of offences or of administrative punishments to be imposed, which would indicate the limits of the mayors' authority.

65. El Salvador does not have a special act regulating administrative detention and restrictively enumerating which administrative authorities are empowered to order or to execute arrest warrants. Thus, in accordance with the principle of the rule of law it must be understood that the only authorities having such powers are those to whom such powers are expressly granted in the respective organizational law, which is true only of the National Civil Police. Consequently, only the latter, pursuant to the provisions of article 13 of the Constitution may order an administrative detention, which order must be reasoned and in writing.

66. Since the Municipal Code does not give mayors authority to hear and punish petty misdemeanours, it follows that any decision by a mayor in respect of offences or the imposition of punishments, even where provided for in municipal ordinances, infringes the principle of legality whereby there is no offence, nor any punishment, except as provided by law.

67. During the period covered by this report, the trend, noted in earlier reports, towards a large number of arbitrary detentions for petty misdemeanours has continued on three fronts: firstly, administrative detentions imposed in violation of the principle of legality, inasmuch as persons continue to be detained for conduct not specified or not characterized in the law; secondly, administrative detentions imposed in violation of minimal procedural safeguards because they are not preceded by legal proceedings prior to imposition of the punishment; and, lastly, detentions executed by authorities not empowered to do so.

68. As has repeatedly been pointed out, an effective and comprehensive solution to the problem of arbitrary detentions for petty misdemeanours can only be achieved through repeal of the 1886 Police Act and introduction of the necessary legal changes so as to bring the Salvadorian legal order into line with the Constitution and with the norms of international human rights law by granting justices of the peace full and exclusive jurisdiction over offences, in the framework of the pending comprehensive reform of the Criminal Code and the Code of Criminal Procedure.

69. In a broader perspective, the scale of the problem of violations of the right to personal freedom as a consequence of arbitrary administrative detentions in El Salvador can be assessed by placing it in the typological framework drawn up by the expert Louis Joinet following a comparative study of the causes of arbitrary administrative detentions in various countries. 1/

70. It classifies the practice of administrative detention under five generic descriptors: (a) detention arising from threats to public order and to State security which are generally prompted by the situation of civilian populations in cases of armed conflict, by states of emergency and by internal disorder and tension; (b) administrative detentions as measures related to the status of foreigners, for example confinement of people at frontier posts, the placing of foreigners under house arrest, the detention of people subject to extradition proceedings, foreigners seeking asylum, or political refugees; (c) administrative detention for purposes of "re-education", which generally has political ends, is mandatory, is based on self-criticism and is further characterized by the fact that freedom depends on the "progress" made by the detainee; (d) detention as a disciplinary measure, essentially a measure adopted by a higher authority as punishment for indiscipline in the army or in prison; and (e) administrative detention as a measure against social maladjustment, in other words a measure that is applied to particular persons who, because they are poor, are considered socially maladjusted, or in compliance with what are known as laws "for the protection of society", as in the case of "vagrants" or "suspicious persons", or prostitution.

71. In terms of the position of El Salvador with respect to international norms on arbitrary detentions, the active verification carried out by the Human Rights Division establishes that in El Salvador administrative detentions fall into the last category described. Although it is encouraging to find that there are no arbitrary detentions resulting from the other situations mentioned, particularly those having political connotations, the arbitrary nature of the overwhelming majority of cases of administrative detention in El Salvador may be described as a structural source of human rights violations in that country. This disturbing fact stems from the inadequacy and lack of clarity of the legal regime on the matter, from the implementation of the 1886 Police Act, from the arrests made by the police without legal justification or without satisfying legal requirements, and from the systematic failure to respect the time-limit for administrative detention established by the Constitution.

5. Freedom of association and effective enjoyment of trade union rights

72. In the ninth report it was stated in relation to freedom of association and the enjoyment of trade union rights that: "Despite the fact that the Forum for Economic and Social Consultation has encountered difficulties and obstacles in promoting concerted social action, the Human Rights Division could see that such difficulties are inherent in an area where there are divergent interests. It would therefore be unrealistic at this stage to expect a tripartite process of concerted action by the State, the society and the business world that would be free of problems, tension and even crises. Consequently, the value of any concerted economic and social action must be judged not in terms of the problems encountered but in terms of the capacity to identify them, work through them and resolve them through understandings and consensus arrangements" (see A/49/59-S/1994/47, para. 56).

73. This positive view is based on the favourable trend observed in El Salvador in the enjoyment of freedom of association and trade union rights. It is clear that the serious problems that used to affect the exercise of trade union rights and that seriously constrained the human rights of trade union members in the past are being progressively overcome and that the situation is characterized by a process of negotiation that is intended to establish legal norms that are representative of the international standards recommended by the International Labour Organization.

74. From 27 September to 1 October a mission of direct contact from the International Labour Organization (ILO) visited El Salvador in the framework of the procedures of the Committee on Freedom of Association. This visit was in compliance with one of the substantive recommendations made by the Human Rights Division.

6. Right to due process of law

75. Complaints concerning violations of due process of law have increased substantially with regard to the legal obligation of the State to prosecute offences. During the period, 68 complaints were received. This situation raises once again the question of the independence and capacity of the judiciary to ensure the effective administration of justice. The Human Rights Division must once again draw attention to the fact that the State has a duty to provide guarantees, and that these guarantees are not yet freely available. The analysis of overall trends in violations of the right to due process of law which, together with violations of the right to life, are the most numerous, indicates that the problem is a complex one and arises from a series of causes, including the delay in adopting new laws or amending existing ones, or aspects which have a bearing on the training and specialization of judges and magistrates or, again, questions relating to functional and administrative aspects of the administration of justice. However, these same trends point to the fact that the principal cause of this situation, which has systematic characteristics, is the lack of independence of the judiciary, something which can only be overcome through urgent and essential constitutional reforms so as

to change the Supreme Court's present vertical organization which constrains the independence of judges and magistrates and relativizes the freedom of judgement which they are supposed to have and to exercise in the fair administration of justice.

7. Right to freedom of expression

76. As in earlier periods, the Human Rights Division has observed substantive respect by the State of the right to freedom of expression. This is of particular importance in the context of the electoral process, in which it is essential that there be necessary and adequate safeguards to permit freedom of expression of all political forces through the various information media.

8. Political rights and the right to identity documents

77. In the period to which this report relates, the Electoral Division of ONUSAL continued to channel its efforts to expand the electoral roll, providing enormous help to the Supreme Electoral Tribunal in the work of registering voters and issuing voter registration documents. During this period, the ONUSAL teams made an average of six observation visits to each of the country's 262 towns, or more than 1,700 visits. ONUSAL also provided support for the Tribunal plan during this period by dispatching some 2,500 mobile team visits, involving more than 5,000 trips by Mission staff. In the course of providing this support, some 297,000 kilometres of travel and roughly 180 hours of helicopter flying time were logged.

78. Quantitatively speaking, the registration exercise can be counted a success. With regard to the registration phase, when the deadline for submitting registration requests was reached on 19 November 1993, the outcome of the registration campaign launched by the Tribunal in July of that year was generally commended in political circles. The official figure of 787,834 registration requests reflects a high degree of citizen mobilization.

79. As for the number of actual registrations, when the electoral rolls were closed on 19 January 1994, the total stood at 2,653,871, of which 2,171,805 corresponded to voter registration cards issued in previous years and 482,066 for temporary cards that could be converted into permanent cards once they became available in the distribution centres and were claimed by the individuals concerned. By 19 January voter registration cards had been issued to approximately 80 per cent of the estimated population of voting age. Once the temporary cards are converted into permanent cards, as many as 2.3 million Salvadorians may appear on the final electoral rolls and possess a registration card that will allow them to vote, according to projections made in September 1993 by the ONUSAL Electoral Division. This is equivalent to 85 per cent of the estimated voting-age population.

80. Setting aside the identification of specific problems and inadequacies which do not in themselves affect the overall validity of the process, this

trend demonstrates the essentially solid direction taken by the process of documentation and of preparation for the elections.

C. Active verification of other commitments established in the peace agreements and having human rights and institutional support components

1. The administration of justice

81. An efficient system of administration of justice - in which the State is cognizant of and respects the limits established by the law, which constitutes the essence of a state government by the rule of law - providing due legal certainty to the citizen in the free exercise of his will and protecting his fundamental rights, is the backbone of democracy.

82. This state of democracy is attained where there exists a coherent body of law guaranteeing human rights along with institutions ensuring effective compliance with the law, so that within the context of the separation of State powers power is counterbalanced by power; so that there exist the necessary independence and impartiality in the definition and application of justice; so that justice may remain aloof from ideologies or political concerns.

83. The proper administration of justice as an essential element of peace was the premise on which, in the General Agenda established by the Government and FMLN in the Caracas agreements, was based the negotiation of the fundamental reforms that must be pursued within the system of the administration of justice, reforms embracing both substantive and procedural law together with the concomitant establishment or adaptation of institutions to ensure the effectiveness of the judicial system.

84. In essence the reforms proposed in the peace agreements by the parties to ensure appropriate compliance by the State with its duty to provide guarantees regarding the administration of justice, and thus eliminate the principal source of impunity in the country, are intended: (a) to ensure the autonomy, independence and impartiality of each and every institution forming the system of administration of justice in the context of the separation of powers of the State; (b) to create new institutions and to streamline and make more effective the existing institutions within the system of administration of justice; and (c) to provide El Salvador with a modern legal system embodying guarantees, under which the authority and sphere of competence of the judiciary are established in strict observance of human rights.

85. These changes have begun to take shape in the guise of various constitutional reforms in the context of the commitments on the system of administration of justice and the protection of human rights included in the Mexico Agreements.

86. The first of these constitutional reforms involves the reorganization of the Supreme Court of Justice and a new means of electing the justices of the

Court, whereby they are appointed by a two-thirds majority of the Legislative Assembly, to ensure their impartiality.

87. Similarly, to endow the system of administration of justice as a whole with the impartiality and independence which are essential to it, the Mexico Agreements provided for the adoption of a constitutional reform whereby the Attorney-General of the Republic and the Chief State Counsel should be appointed by a two-thirds majority of the Legislative Assembly. The same procedure was intended for the appointment of the National Counsel for the Defence of Human Rights, an institution established at the constitutional level under the Agreements as a quasi-jurisdictional mechanism for the protection of human rights, and which, within the democratic framework of the separation of powers and as part of the Public Prosecutor's Office, is intended to strengthen the monitoring machinery available to the State to promote respect for human rights.

88. Other substantive changes to ensure the independence and impartiality of the system of administration of justice were to be achieved, under the Mexico Agreements, through the adoption of reforms to Salvadorian secondary legislation: a redefined structure for the National Council of the Judiciary to safeguard its independence vis-à-vis State organs and political parties and to guarantee representation on the Council of other sectors of society not directly linked to the system of administration of justice; and a redefined career judicial service, so that admission to the service is based on mechanisms guaranteeing objective selection, equal opportunities for all candidates and the selection of the best qualified candidates. In accordance with these Agreements the Legislative Assembly, in November 1992, adopted the new National Council of the Judiciary Act and amended the Career Judicial Service Act.

(a) National Council of the Judiciary Act

89. The Human Rights Division noted, in the sixth report to the Secretary-General, that this Act did not satisfactorily ensure the independence of the Council vis-à-vis State organs and political parties, since it provides for the election of members and alternates by a qualified two-thirds majority of the Legislative Assembly, which means that two or more political forces representing the required majority might share the Council's posts between them, thereby accentuating the partisan nature of the system of justice. On that occasion the Human Rights Division also recommended that the independence of the Council budget should be assured, noting that the Council should draw up a preliminary budget and submit it to the Supreme Court of Justice in July of each year, and that any adjustments in budgetary planning which the Supreme Court of Justice deemed necessary should be made in consultation with the Council (see A/47/912-S/25521, annex, paras. 216-227).

90. In connection with the composition of the Council, the Human Rights Division noted that the Act adopted by the Legislative Assembly limits the composition of the Council to individuals connected with the judicial system, without including other social sectors that could contribute to its independence and an improvement in the system of administration of justice, as provided for under the peace agreements. With respect to the appointment of magistrates and judges, the Human Rights Division recommended that the National Council of the

Judiciary itself should be responsible not only for selection but also for appointment, and, further, that members of the Council should be appointed directly by the institutional or social sector they represented, rather than through the Legislative Assembly. In this connection it would be advisable to revise the amended texts of articles 186 and 187 of the Constitution.

91. The Commission on the Truth complemented this by recommending the elimination of those provisions of the National Council of the Judiciary Act which left the dismissal of some members of the Council to the discretion of the Supreme Court of Justice, so that they could then be dismissed only for precise legal causes, to be weighed by the Legislative Assembly.

(b) Career Judicial Service Act

92. In the framework of the reforms of the system of administration of justice proposed in the peace agreements, the Legislative Assembly has amended the Career Judicial Service Act to bring it into line with the principles underlying the constitutional reform and to define the administrative structure of the career judicial service.

93. In this connection the Human Rights Division, in the sixth report of the Director to the Secretary-General, noted that the amendments made to the Career Judicial Service Act "merely guarantee the Court itself increased powers with respect to, inter alia, the administration of the career judicial service ... and the imposition of disciplinary penalties on judicial officials" (see A/47/912-S/25521, annex, para. 230). Further, the Division noted that it was necessary for the Act to lay down clear and uniform criteria governing selection procedures, the profile required of applicants to the judicial service, the type of competitive examination and the nature of the training to be given by the Judicial Training School. The School was established under the Mexico Agreements with the objective, under the authority of the National Council of the Judiciary, of promoting continuous improvement in the professional standard of judges and other judicial officials.

94. In a similar vein the Commission on the Truth stated that the Career Judicial Service Act should be amended to establish that only those judges who, according to a rigorous evaluation made by the National Council of the Judiciary, had demonstrated judicial aptitude, efficiency and concern for human rights, and who offered every guarantee of independence, judicial discretion, honesty and impartiality in their actions, might remain in the career judicial service.

(c) Reform of the judiciary

95. In order to guarantee the independence of the system of administration of justice, the Commission on the Truth recommended the adoption of reforms to overcome the tremendous concentration of functions in the Supreme Court of Justice and its President, on the ground that this undermined the independence of lower court judges and lawyers. The thrust of the recommendation was the transfer of functions from one authority to another, and not mere administrative decentralization, which, technically speaking, is a delegation of authority.

The Court, without losing its status as the country's highest court, should not, in the interest of the independence of the judiciary, be the administrative head of the judiciary.

96. In a similar vein the Commission on the Truth recommended that judges should not be appointed and removed by the Supreme Court of Justice, but independently by the National Council of the Judiciary; that each judge should be responsible for administering the resources of the court under his jurisdiction and should be accountable for them to the National Council of the Judiciary; and that the functions of granting authorization to practice as a lawyer or notary and the suspension or penalizing of members of those professions should be attributed to a special independent body and not to the Supreme Court of Justice.

(d) Constitutional justice

97. In its sixth report to the Secretary-General, the Human Rights Division drew attention to the shortcomings in the legal regulation of habeas corpus, essentially owing to the fact that the remedy has to be presented to courts of second instance, and that those courts delegate the execution of habeas corpus to executing officers, who in many cases are not lawyers. In this connection the Human Rights Division recommended the introduction of legislative and institutional reforms to make habeas corpus accessible, speedy and effective (see A/47/912-S/25521, annex, paras. 240-244). The Commission on the Truth made a similar recommendation.

98. The Commission on the Truth also recommended the amendment of the Constitution to include explicit provisions on human rights, including those contained in international instruments to which El Salvador is a party.

99. Other recommendations of the Human Rights Division and of the Commission on the Truth concern the amendment of the rules and guarantees relating to: due legal process; abolition of extrajudicial confession; strict compliance with time-limits for police detention; reinforcement of the right of defence starting from the very first actions in a proceeding; the strict regulation of administrative detention and the inclusion, in a further reform of the penal legislation, of crimes committed with the direct or indirect support of the State or its agents; the expansion of the system of information on detainees; the adoption of legislative reform to grant a simple, swift and accessible remedy to anyone who has been a victim of human rights violation enabling them to obtain material compensation for the harm suffered; and expansion of the application of the machinery for the protection of human rights available under international instruments.

100. These reforms as a whole must be seen in the overall context of the agreements. The amendments they involve affect the political structure of the State as a whole. In this sense the reforms of the armed forces and the establishment of a National Civil Police are linked to the reforms of the administration of justice and the judiciary. Compliance with each of these agreements is necessary in terms of compliance with the others. For example, as an auxiliary organ in the administration of justice, the National Civil Police,

together with the Office of the Attorney-General, has the most responsibility in the proper investigation of crime.

101. The Human Rights Division, in the discharge of its mandate, has closely followed the status of each of these reforms and has made recommendations to promote their speedy implementation. Section III of this report includes some considerations on the state of implementation of these recommendations.

2. The penitentiary system in El Salvador

102. On 18 November 1993 inmates at the San Francisco Gotera detention centre, used to house more dangerous prisoners, instigated a violent riot that led to the selective murder of 27 of the 130 prisoners housed in the first of the detention centre compounds. This serious confrontation, in which neither the administration nor the guards intervened, was the end-product of a series of acts of aggression and confrontation that took place over several months among the inmates in the compound - those incidents which resulted in deaths being of particular significance - against the rest of the detention centre population, and to which the penitentiary authorities in El Salvador did not respond, notwithstanding the fact that the Human Rights Division had repeatedly alerted them to the conflicts among the inmates.

103. On 17 January 1994 there was an uprising by some 300 inmates of the Sensuntepeque detention centre in a protest against physical ill-treatment at the hands of the guards, the poor state of essential services at the detention centre, and overcrowding. The inmates also requested transfers to other detention centres.

104. On 24 February 1994 a number of convicts who had been moved from San Francisco Gotera as a result of the 18 November riots caused a new disturbance at the Santa Ana detention centre in which seven inmates had their throats cut and another four were seriously wounded. In this case, in common with those of the other riots referred to, officials of the Human Rights Division and of the Office of the National Counsel for the Defence of Human Rights intervened as mediators, thus averting the possibility of a higher number of victims.

105. Those serious incidents, as well as the tense situation prevailing in those and in other detention centres in the country, demonstrate that the situation in the prisons of El Salvador is critical, and calls for action by the State to solve the structural problems in the prison system.

106. Active verification carried out by the Human Rights Division in the prisons of El Salvador has confirmed the existence of several types of serious shortcomings that reflect a failure on the part of the State to fulfil its obligations under the Constitution, article 27, paragraph 3, of which stipulates that the State is responsible for organizing the penitentiaries, with the aim of reforming offenders, educating them and teaching them work habits, looking towards their rehabilitation and the prevention of crime.

107. The lack of minimum security and the scarcity of trained personnel are problems that exist in almost all the prisons. The situation is compounded by overcrowding; in most prisons the population is more than double what the facility was meant to have. By way of example, the prison at San Miguel, built for a population of 150 prisoners, is currently shared by 380; Usulután, built for 100 prisoners, has 203; Sonsonate, intended for 200 inmates, currently houses 394, and La Unión, which was intended for 100 inmates, has 162.

108. Furthermore, funds are insufficient to properly cover even the minimum expenses of food, medical care and hygiene for the inmates and this, added to the poor prison administration means that, in many cases, inmates live in inhuman and degrading conditions and are hardly likely to have the minimum conditions needed for the process of reform and education which is their constitutional right.

109. Prison authorities commonly resort to various practices which are not in conformity with the provisions of the International Covenant on Civil and Political Rights and the American Convention on Human Rights, or with the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment. This is the case with solitary confinement, which is used regularly for disciplinary purposes, without giving the prisoner the right to a defence, without prior medical examination or daily supervision of the prison director. In most cases, the cell used for solitary confinement is also inadequate.

110. Isolating the accused by what is called the "suspension of visiting privileges" or by incarcerating them in centres located far from home, are common practices that violate the aforementioned international instruments. Also disturbing is the fact that persons awaiting trial, who make up more than 80 per cent of the prison population, are not separated from those who have been convicted.

111. Another cause for concern is the lack of an effective system to provide the accused with public defenders and legal assistance. In many cases the accused does not know how the trial is progressing or even where it is being held. Urgent measures are needed in this area, especially since it has been established by the judiciary and the prison authorities that some individuals remain in prison after they have served their sentences. One such case is that of Agustín Ramirez Perez, who was tried and sentenced to five years in prison by the First Criminal Court of Santa Ana; his five years were up in November 1990. Nevertheless, Mr. Ramirez remained in Mariona jail until 12 November 1993; in other words, he was held illegally for three years, an inexcusable example of incompetence on the part of the judicial and prison authorities.

112. In a statement to the press stemming from the incidents occurring in San Francisco Gotera prison, the Minister of Justice said that "prisons do not meet the requirements of security, nor the United Nations Standard Minimum Rules for the Treatment of Prisoners, but the penitentiary system, like the country, is a developing one". Since the Government is aware of the situation it should take prompt action to provide the prison system with adequate human and financial resources.

113. It is, therefore, encouraging that the Ministry of Justice itself has submitted to the Legislative Assembly a bill on prisons that starts with the full recognition that a man who commits an offence, simply because he is human, should be treated as a human being, and not be denied the benefits and prerogatives to which he is entitled as such. In its substantive part, the bill refers expressly to the validity of the relevant international norms contained in the treaties ratified by the State, which are binding on the State and which take precedence over any of the provisions in the bill itself; it also provides for the ancillary application of the Standard Minimum Rules for the Treatment of Prisoners and of the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, in the absence of any legal norms or regulations on the subject.

114. The bill expressly lists the internationally recognized rights of prisoners, and covers community participation, through the establishment of foundations and civil associations for social welfare, educational activities, work, aid and any other activities that the conditions of the sentence and security requirements will allow. It also provides for the establishment of a special prison jurisdiction with responsibility for prison supervision, judges to supervise prisons and enforce sentences, and a department of probation and assistance to released prisoners. The bill also regulates the enforcement of sentences not involving deprivation of liberty, such as community service, weekend detention, house arrest and the imposition of fines. The bill inter alia contains detailed provisions governing penitentiaries, prison treatment, work, disciplinary measures and the obligations of inmates.

115. This legislative reform initiated by the Ministry of Justice must, however, undergo lengthy review and assessment, during which any needed adjustments and reforms can be made to improve its application to the realities and institutional context of El Salvador.

116. The Human Rights Division believes that a systematic updating of prison information must be carried out in the immediate future, in order to guarantee the existence of true and reliable data about the prison population in El Salvador, as well as the adoption of measures so as to monitor observance of the law in detention centres. Regular prison censuses could be taken, by having judges visit prisons in order to interview inmates, closely monitor the situation of the accused and let them know how the trial is progressing. The Human Rights Division could cooperate with the prison authorities in the design and execution of an action plan.

3. The Office of the National Counsel for the Defence of Human Rights

117. The activities of the Office of the National Counsel for the Defence of Human Rights have continued to focus on three major areas: verification of human rights violations, strengthening of its institutional capacity, and promotion and education in the field of human rights.

118. In January 1994 the Office issued its fourth report, in which it noted that progress in human rights is complex and contradictory, and that we must see it for what it is in order to initiate appropriate solutions in each situation. We must recognize that there is still a strong tendency in many places to disregard citizens' basic rights, and that this can lead to serious situations such as political violence. But we must also recognize that mechanisms, procedures, standards and institutions have already been established and are in operation to channel socio-political will to promote human rights, and that they are making their weight felt in the peaceful and cooperative settlement of disputes.

119. The report also lists some of the Office's most immediate tasks, such as the investigation of acts of political violence, improvement of judicial and administrative due process, development of its investigation and monitoring techniques, design and establishment of a register of detainees, matters relating to the security of the citizenry, the situation of vulnerable social groups and increased activities and programmes in the promotion of human rights, education and training.

120. The institutional strengthening of the Office is a substantive issue where the requirements for the protection of human rights in El Salvador in the short, medium and long term coincide. The Counsel's decision to regionalize the national deployment of the Office was therefore a prudent one. Its operations will be decentralized throughout the country by means of eight local offices in the western, west central, central, east central and eastern regions.

121. One course of action that should strengthen the Office over the coming months is its increasingly dynamic link with non-governmental organizations; as the Counsel for the Defence of Human Rights himself stated, at the inauguration of the departmental office in San Francisco Gotera, these have played and continue to play an essential role in the defence and protection of human rights, and the Office should make full use of their experience and credibility.

4. Human rights components of reform of the armed forces and security forces

122. The Human Rights Division of ONUSAL, in coordination with the armed forces, is continuing to implement a specific programme for the development of aspects of military training in a democratic system, especially training in respect for the law and human rights and issues relating to the new doctrine of national defence. This programme, which includes the introduction of military sociology as a tool for reflection on the institutional role of the armed forces in democratic societies, is being implemented satisfactorily with appropriate cooperation by the armed forces.

123. Since November 1993, ONUSAL has verified the dissolution of the former National Intelligence Department and the surrender of other armed forces units in compliance with the peace agreements. The Government informed ONUSAL that the files of the former National Intelligence Department would remain in the possession of the Joint Chiefs of Staff of the armed forces. The final destination of those files has not yet been decided, although a systematic

interpretation of the peace agreements indicates that they should be handed over to the new State Intelligence Agency. In accordance with the constitutional reforms, the State's intelligence activities are the responsibility of the new agency under the Office of the President of the Republic, with civilian management. The intelligence activities of the armed forces, therefore, must remain strictly within the bounds of their constitutional functions. In the report submitted by the Secretary-General to the Security Council on 23 November 1993, it was noted that "it is not fully clear that the above provisions have been adequately complied with and ONUSAL is pursuing this matter with the Government" (see S/26790, annex, para. 14).

5. The National Civil Police

124. In the seventh report to the Secretary-General it was noted that "the effective deployment of the new National Civil Police is an issue that affects not only public order but is also directly related to institutional conditions and to the fulfilment of the State's duty to guarantee and protect human rights. The maintenance of law and order must not be used as an excuse to suppress basic freedoms and human rights. On the contrary, it must guarantee the enjoyment of such freedoms and rights. However, human rights cannot be enjoyed in the absence of law and order. Hence the importance given by the agreements to the deployment of a modern police force that can guarantee the security of the citizenry within the framework established by the law" (A/47/968-S/26033, annex, para. 304).

125. The Human Rights Division believes that the current public security situation of El Salvador should be seen from this viewpoint. It reflects a dual task, indicating two clear commitments for the Government: the need to reverse the disturbing rise in the indicators for common violence and insecurity among the citizens, which demands that the State take appropriate and effective measures to fight crime, and the obligation arising from the peace agreements to disband the National Police and to deploy the National Civil Police throughout the entire country, following the procedures and requirements stipulated in the agreements.

126. Faced with this complex situation, characterized on the one hand by an increase in crime which affects law and order and, on the other, by the need to proceed as scheduled with the disbanding of the National Police and the deployment of the National Civil Police. The Human Rights Division feels duty-bound to point out that the pressing need to resolve problems of security must not lead to any change in the purpose for which the National Civil Police was established, namely, to be a force responsible for the maintenance of public order within the context of the rule of law and guided by the principle of service to the public.

127. In the context of the new institution, crime control requires a major effort on the part of the State to adopt comprehensive, fundamental and well-planned measures to strengthen the National Civil Police so that they can fully carry out the duties entrusted to them in the peace agreements by the nation as a whole: to ensure public security as defined within the context of democratic

values and bearing in mind its essential relationship to the protection and defence of human rights and the rule of law.

128. Thus, to have members of the National Police and the former State security forces join the National Civil Police without strictly complying with the procedures stipulated in the agreements, not only violates the provisions of the peace agreements, but threatens to change the new institution's functions. Moreover, it should be pointed out that having former members of the armed forces in the National Civil Police could be dangerous in that it could alter the essentially civilian nature of that force and transfer old national security doctrines to the new public security agency, thereby tainting training in the new doctrine and leading to the use by the police of unlawful practices.

129. The Human Rights Division has repeatedly emphasized the need to provide the National Civil Police with greater technical and human resources to make up for its shortcomings in the area of prevention - an area that needs to be developed - which are evident above all in the lack of adequate patrols and investigation. Technical training and access to material resources suited to crime prevention are essential in order to eradicate crime.

130. Even more disturbing than the lack of resources is the increase in the number of complaints of human rights violations which, upon verification, are found to be true, and for which members of the National Civil Police are responsible. Most complaints received relating to the National Civil Police arise from arbitrary practices such as searches without court orders or arbitrary detention of citizens. One of the principal causes for this appears to be the transfer to the National Civil Police of members of the former State security forces and armed forces, often in positions of responsibility, and inadequate training of members of the National Civil Police.

131. These problems are becoming more serious, due to some actions that would appear to be indicative of inadequate internal controls. Personnel based at distant posts appear to act with little supervision by their respective sub-commanders; likewise, departmental authorities are not always monitored by their superiors in San Salvador; thus it is very difficult to develop effective means of internal control to bring police conduct into conformity with the law. In that respect, the Human Rights Division notes that failure to control police activities, and the impunity that this commonly implies, has traditionally led to human rights violations by the police in El Salvador, and they should, therefore, be noted and eliminated once and for all.

132. One disturbing and glaring deficiency that has been found in the verification conducted by the Human Rights Division is the lack of coordination and communication between the National Civil Police and the judiciary. For example, the National Civil Police are not in the habit of going to court to obtain detention orders, indicating a persisting need for better understanding on the part of members of the National Civil Police that, in a State subject to the rule of law, their institutional role in ensuring public safety and fulfilling their responsibilities as an auxiliary body of the administration of justice will be effective only within the context of the judicial and institutional system as a whole, and that they must, therefore, scrupulously

respect and observe their obligations under the law towards other institutions, as the best means of ensuring their effectiveness as guardians of law and order.

133. These deficiencies adversely affect the institution itself, as in the case of a search conducted by the National Civil Police on 28 January in Ozatlán, Usulután, during which one of their officers was killed. Between 4 and 4.30 a.m., eight National Civil Police officers, some in civilian clothes, went to the home of Mrs. María Berta Flores in Ozatlán, for the purpose of conducting a search for weapons. Without identifying themselves, they surrounded the house. One of the residents, José Israel Campos Montoya, believing that he was being assaulted, surprised one of the officers and wounded him in the head with a scythe; he then seized the officer's weapon and shot and killed him. The operation continued without positive results. The actions of the National Civil Police in this case were deficient on several counts: the search was conducted without a court order, in the middle of the night, with officers dressed in civilian clothes who failed to identify themselves.

134. As a result of this serious incident, the National Civil Police has begun to take some corrective measures. The Human Rights Division has been assisting in those efforts through the development of a series of criteria for strengthening the operating efficiency of the National Civil Police, so that while fulfilling its duty of ensuring public safety it may also win the public's confidence; this is possible only when the procedures it employs in the conduct of its duties are strictly in accordance with the law.

135. These observations have been made with the intention of contributing to the proper compliance with the agreements concerning the National Civil Police; despite the problems identified, the latter continues to have a very positive impact both as regards its security functions and as regards its general relations with the population.

III. ANALYSIS OF THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE HUMAN RIGHTS DIVISION

136. In the eighth report, the Director of the Human Rights Division assessed the implementation of the Division's recommendations with a view to helping to remove some of the remaining constitutional and legal obstacles to the protection of human rights.

137. This report will seek to update that assessment not only because some time has elapsed but also, and in particular, because given the present stage of the peace process and the evolution of the human rights situation, the political community views the implementation of the recommendations of the Human Rights Division and the Commission on the Truth as crucial to the further legal development of procedures for constitutional and legal protection.

138. A status report on the implementation of the recommendations is given below.

A. Recommendations involving constitutional reforms

139. The Division's recommendations concerning the structural and functional reform of the judiciary and amendments to the regulations governing the remedies of habeas corpus and amparo would entail constitutional reform. There are two substantive aspects to these reforms. First, there is the decentralization of the functions of the Supreme Court of Justice, which involves transferring authority for appointing and removing justices of the peace, judges of first instance and magistrates to the National Council of the Judiciary and making an independent body responsible for authorizing lawyers and notaries to practise as such and suspending them. Second, there are the constitutional amendments, whereby judges of first instance would be competent to deal with issues of habeas corpus and amparo.

140. The President of the Republic duly sent a message to the Legislative Assembly requesting it to consider those recommendations of the Commission on the Truth involving constitutional amendments - which echo and endorse the recommendations of the Human Rights Division. In accordance with the Constitution of El Salvador, a constitutional amendment must be petitioned by a minimum of 10 legislators and the procedure for adopting it extends over two legislative sessions.

141. ONUSAL believes that the implementation, during the legislative session ending on 30 April, of the constitutional amendments concerning decentralization of the power of the Supreme Court of Justice is a key and decisive element in the judicial reform process in El Salvador. Without a truly independent judiciary, whose administrative structure does not compromise the judges' freedom and independence of judgement and the lawyers' action, the entire legal reform effort being promoted by the Ministry of Justice itself would be devoid of meaning. Modern legislation which provides basic guarantees of human rights cannot be effective if it is administered by a judiciary which has the power to influence the conduct of judges and lawyers either directly or indirectly. In this context, it is equally important to carry out reforms aimed at making the remedy of habeas corpus effective and easily accessible to the citizens by giving judges of first instance and justices of the peace competence to hear such remedies.

142. In this context, it would seem self-evident that the success of all the efforts being made in the legislative sphere will depend on the existence of the political capacity to promote the independence and effectiveness of the judiciary through constitutional reform, which thus becomes an urgent and immediate task. ONUSAL believes that, although the current Legislative Assembly is about to conclude its activities, it should initiate a constitutional reform process that would culminate during the first session of the new Legislative Assembly to be installed on 1 May 1994.

B. Recommendations which do not involve constitutional amendments

1. Establishment of a special commission of inquiry to investigate arbitrary and extra-legal executions

143. In the wake of the assassinations of FMLN leaders in October and November 1993, the Government decided to establish an Interinstitutional Investigation Commission headed by the Minister and Chief of Staff in the office of the President and composed of representatives of the Office of the Attorney-General, the National Civil Police, the Criminal Investigation Commission, the State Intelligence Agency and the Presidential Commissioner for Human Rights. This Commission worked on the investigation into the cases of Eleno Castro, Ernesto Vélis and Mario López and continues to assume responsibility for the investigation of other assassinations of political leaders or attempted arbitrary executions, such as the attempt on the life of national FMLN leader Marta Valladares (Nidia Díaz). ONUSAL is monitoring the investigations being conducted by the Interinstitutional Commission. The existence of a special entity to investigate cases of assassinations of political leaders in which not only must the possibility of political motivation not be ruled out a priori, but be given serious consideration, is certainly a major improvement over the former situation. The fact that, in the investigation of some of these cases, advice was sought from investigators belonging to prestigious foreign investigation bureaus, is added proof that there is a political will which recognizes the need for effective and independent investigation.

144. However, as indicated in the ninth report of the Human Rights division and without prejudice in any way to the outcome of the investigations being conducted by the Interinstitutional Commission, "the Human Rights Division feels constrained to point out that the composition of the Commission does not necessarily reflect the desired independence of judgement. There is, for example, the involvement of the political power of the State in the bodies legally responsible for criminal investigation, while the Office of the National Counsel for the Defence of Human Rights, which has broad constitutional powers to investigate human rights violations on a quasi-jurisdictional basis, is not represented. In that connection, the Secretary-General reported to the Security Council on 29 October that the Interinstitutional Commission 'did not meet the United Nations criteria for the investigation of summary executions' (S/26790, para. 11), but that, in compliance with its observation function, ONUSAL has none the less been closely following the work of the subgroup" (A/49/59-S/1994/47, annex, para. 23).

2. Ratification of or accession to international instruments, including the Conventions of the International Labour Organization mentioned in the sixth report

145. In compliance with this recommendation, the executive branch has transmitted the relevant instruments to the Legislative Assembly for the adoption of the instruments of ratification and/or accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Additional Protocol to the American Convention on Human Rights in the Area

of Economic, Social and Cultural Rights (Protocol of San Salvador) and the Inter-American Convention to Prevent and Punish torture. The Legislative Assembly must adopt those instruments and thereby give full effect to the recommendation concerning them. They should be adopted before the end of the current legislative session.

146. A similar constructive attitude must be taken towards the Optional Protocol to the International Covenant on Civil and Political Rights and recognition of the compulsory jurisdiction of the Inter-American Court of Human rights. Such recognition is essential if El Salvador's participation in international mechanisms for the protection of human rights is to comply with international standards and be consistent with the spirit that informs the peace process taking place in the country. There is no constitutional or legal impediment to prevent El Salvador from recognizing the compulsory jurisdiction of the Court. This option would be available in addition to domestic jurisdictional remedies and is consistent with a broad view of the democratic system rooted in the very spirit of the Salvadorian Constitution, which affirms the functional principle of non-exclusion from national and international protection mechanisms.

147. The Forum for Economic and Social Consultation has decided to ratify 14 of the ILO conventions. Those procedures should be completed in the immediate future.

3. Establishment of a compensation fund for victims of human rights violations

148. This recommendation is vital to the firm establishment of a culture of peace and reconciliation. The compensation of victims of human rights violations is not only a matter of ethics, justice and equity but is also necessary for establishing credibility in the administration of justice. Finally, it would demonstrate genuine political will in respect of the task of reconciliation. The Human Rights Commission of El Salvador (CDHES) submitted a draft from a civilian standpoint which the Human Rights Division has characterized as a sound proposal and which could be the point of departure for legislative action. Unfortunately, the executive has made no progress at all in this regard and the Human Rights Division has not been informed of the results of the preliminary studies which the Government told ONUSAL it had launched several months ago. The Human Rights Division believes that it is essential for the Government authorities to submit the appropriate draft legislative decree to the Legislative Assembly. Given the nature of the institution to which the regulations would apply, a national consensus should be sought on the text.

4. Improvement of the composition and powers of the National Council of the Judiciary and independence of the Judicial Training School

149. The National Council of the Judiciary and the Supreme Court of Justice each submitted preliminary bills to the Legislative Assembly which, at least on paper, appear to be aimed at implementing the recommendation. However, despite

some of their positive provisions, these preliminary bills do not comply with the substantive aspects of the recommendation, namely, granting the National Council of the Judiciary authority to appoint and remove judges and magistrates. In that sense, this recommendation has not been implemented and cannot be said to be in the process of being implemented, for, as has already been indicated, that would require a constitutional amendment.

5. Elimination of extrajudicial confession

150. As indicated in the eighth report, the provisions of the new Public Defender's Act and the amendments already introduced in the Code of Criminal Procedure and the Act organizing the Public Prosecutor's Office have virtually eliminated from the legislation any legal possibility of using extrajudicial confession. However, as its express abolition is necessary, the Ministry of Justice has submitted to the Legislative Assembly a draft legislative decree abolishing extrajudicial confession. Although some time has elapsed since the submission of this proposal, the Legislative Assembly has not yet adopted it. It is essential that it be adopted before the end of the current legislative session. COPAZ has a special responsibility in this connection.

6. Definition of torture and enforced disappearance as offences in special criminal legislation

151. The executive branch has added these two violations to the offences defined in the preliminary bill of the new Penal Code. The public has now been consulted on the text of the new code. The Ministry of Justice, according to the methodology used to promote the initial reforms, is all set to submit the draft legislative decree for adoption by the current Legislative Assembly.

7. Legislation regulating the conduct of law enforcement officials in terms of ensuring respect for human rights

152. This recommendation has been incorporated in a draft legislative decree elaborated by the Ministry of Justice, which gives legal effect to the provisions of the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly of the United Nations. Accordingly, the draft text is eminently satisfactory. It has been transmitted by the executive branch to the Legislative Assembly for adoption, but no action has been taken yet. Its adoption by the Assembly is of the utmost importance.

8. Abolition of the practice of arbitrary detention for petty misdemeanours

153. Beyond the efforts made by ONUSAL, the National Police and the National Civil Police to reduce the number of arbitrary detentions for petty misdemeanours, which have had uneven results, implementation of this

recommendation means repealing the 1886 Police Act, transferring jurisdiction over petty misdemeanours to the judicial authorities and expressly regulating the powers and functions of the Municipal Police, which should not be competent to make arrests and determine punishment for petty misdemeanours. It is regrettable that there has been no initiative thus far to abolish the 1886 Police Act outright. This should be done in the immediate future.

9. Temporary application of the Act governing the procedure for administrative detention or the imposition of administrative fines

154. This recommendation is linked to the preceding one, as a temporary means of reducing the high incidence of arbitrary detentions for petty misdemeanours. Since March 1993, the National Police and, subsequently, the National Civil Police have been following a set of instructions on petty misdemeanours which brings the law into compliance with the recommendation. The instructions seek to have the police force apply the "Act governing the procedure for administrative detention or the imposition of administrative fines" (Decree No. 457) in place of the obsolete provisions of the 1886 Police Act or illegal procedures. Despite the efforts made and the measure of progress achieved, its application is still incomplete.

10. Visit by the ILO Committee on Freedom of Association

155. This recommendation has been fully implemented. Professor José Vida Soria headed the ILO mission of direct contact which visited El Salvador between 27 September and 1 October 1993 within the framework of the activity of the Committee on Freedom of Association. In its report to the Committee, the mission pointed out that it had also found that following the recent establishment of peace (January 1993), there was a real desire by all to put the past behind them, and that, in fact, the main concern was not to dwell on the past but rather to build the present and the future without minimizing the seriousness of the past situation. The report went on to say that the mission had found a society attempting to forget the past through the use of its freedom of expression, its capacity for dialogue and its other democratic freedoms, and that, in that connection, the activities of the United Nations and, in particular, those of ONUSAL could not be overlooked.

156. The implementation of this recommendation has been beneficial to both the Government and to labour and management. Additionally, it has helped to overcome a number of obstacles which had been mounting for many years in the relationship between the Salvadorian State and ILO, with obvious negative effects on the interrelationship between domestic and international labour law. Referring to the new situation that has emerged with the implementation of the recommendation, the mission of direct contact pointed out that in any case, the country and ILO could be said to have entered a new phase in their relationship, as evidenced by the fact that the Forum for economic and Social Consultation had approved ratification of 14 major ILO Conventions and had promised to submit them to the Legislative Assembly, that the mission was permitted to visit and

that the Government had provided it with substantial information concerning the alleged acts.

11. Legal recognition of associations and trade unions

157. By its very nature this is an ongoing recommendation, and refers to the State's responsibility to apply the law on a non-discriminatory basis and to respect pre-established procedures and deadlines in dealing with all applications for legal recognition, particularly from trade unions, associations and non-governmental organizations. During the period covered by this report, commendable progress has been achieved in this respect, for example, the legal recognition, on 10 December 1993, of the Fundación para la Autogestión y Solidaridad de los Trabajadores Salvadoreños (FASTRAS).

158. Beyond these successful cases, it seems necessary to make some effort to go beyond case-by-case treatment of non-governmental organizations (NGOs) and establish a legal framework and procedure that would provide legal safeguards in connection with the legal requirements and procedures for their establishment. This implies the need to elaborate and adopt a law establishing procedures for the legal recognition of non-governmental organizations. The Ministry of the Interior could also brief NGOs regularly in order to ensure that they have a clear understanding of the required procedures and that they avoid situations which, in practice, affect the legitimate interest of NGOs seeking legal recognition within the framework of a pre-established, efficient procedure. The NGOs themselves should be consulted in the elaboration of the above-mentioned legal procedures.

12. Budget autonomy for the Office of the National Counsel for the Defence of Human Rights

159. The implementation of this recommendation is related to the need to allow the Office of the National Counsel for the Defence of Human Rights, which is currently part of the Public Prosecutor's Office, greater autonomy. However, this would entail a constitutional amendment. The Office of the National Counsel is drawing up a proposal that would ensure it an acceptable degree of autonomy and effectiveness in the use of its budgetary resources, without resorting to constitutional reforms for the time being.

13. Preliminary bill relating to the Penal Code, the Code of Criminal Procedure and the prison act

160. In accordance with the methodology used by the Ministry of Justice for its legislative initiatives, the preliminary bills on both the prison act and the Code of Criminal Procedure are awaiting Government approval. Consultation of the public on the preliminary bill concerning the Penal Code has been in progress since January 1994. These processes, which are undoubtedly vital, should not, however, delay the submission of preliminary bills to the current Legislative Assembly for adoption at the earliest possible date. In that

connection, it would be useful to establish a timetable for the consultation processes on these preliminary bills, and for their approval by the President and submission to the Legislative Assembly before the Assembly concludes its activities on 30 April 1994.

14. Amendments to the Career Judicial Service Act

161. A Commission was established within the Legislative Assembly to study amendments to the Career Judicial Service Act. Thus far, it has not submitted any findings. This is disturbing, for the suggestions made by the Human Rights Division and the Commission on the Truth in this area are crucial to the integrity of the judicial branch in El Salvador.

IV. CONCLUSIONS

162. The evolution of the human rights situation during the four-month period covered by this report (November-February) does not present all the characteristics of deterioration that were evident during the period immediately preceding it (August-October) and conforms more to the trends described in previous reports. This seems to confirm the general theory that clear responses which express a political will to investigate complaints are the best way to dispel or confirm suspicions of human rights violations. At the same time, they are the chief deterrent to human rights violations. In order to give unequivocal expression to such capacities, it will be necessary, however, to do something about impunity, which is still very much a reality both in police inquiries and in most judicial proceedings.

163. The active verification carried out by the Human Rights Division into the acts of violence perpetrated by organized criminal groups many of which are composed of former members of the armed forces and former FMLN combatants, appears to confirm the theory that some of the crimes against individuals who are or have been linked to FMLN or the army, are politically motivated. In many of the violent acts that occurred during the period of conflict, the victims were able to identify the perpetrators; it could therefore be concluded that as a direct consequence of the war, crimes with a private political component are being perpetrated to settle scores.

164. The right to life is still the most vulnerable category. While violations of the right to life during the period, covered by this report do not reflect the same characteristics as those that were verified during the previous period, arbitrary executions and attempted arbitrary executions still account for the majority of complaints received. The inability of the investigations branch of the police to apprehend those responsible and the subsequent inability of the judiciary to punish them, continue to be a fundamental reason for the high incidence of violations of the right to life and especially of the sense of impunity that continues to prevail.

165. During the period covered by this report, complaints of death threats continued to increase. This serious situation could be directly related to the

high rates of ordinary crime - especially crimes of extortion involving money - that characterized the previous period. However, the only explanation for many of these crimes appears to be that they are politically motivated. This is especially true of a large number of complaints that seem to be closely tied in with the electoral campaign.

166. The active verification carried out during the period covered by the report, has clearly established the fact that the National Police continues to carry out many of its activities in flagrant breach of legality and in violation of human rights as reflected by the statistics included in this report. That notwithstanding, the new Director of the National Police has adopted crucial measures to deal with that serious situation and to shake the commanding officers from their lethargy. While the Human Rights Division hails the policy imposed by the new Director of the National Police since 1 January, it would like to reiterate the need to fulfil the commitment established under the peace agreements to completely disband this security body and to deploy the National Civil Police throughout the country within the deadlines provided for in the agreements.

167. The Human Rights Division has repeatedly complained about the seriousness of the situation with regard to ordinary violence. It has also warned about the possible links between ordinary violence and human rights violations, and about factors that contribute to violence which are linked to the non-fulfilment, delay in or partial fulfilment of commitments stemming from the peace agreements. Nevertheless, the actions taken by the Government to deal with crime appear to play down such warnings and tend to continue the policy of prolonging the existence of the National Police whose activities in respect of public security not only have not produced satisfactory results, but have also failed to stem the increase in ordinary violence especially in those areas where the National Civil Police has not yet been deployed.

168. The systematic practice of arbitrary detention in El Salvador - particularly administrative detention for petty misdemeanours, which are a violation of the principle of legality, a violation of the right to minimum procedural guarantees or which are carried out by bodies that are not specifically authorized by law to do so - can only be stopped by abrogating the 1886 Police Act, transferring jurisdiction for misdemeanours to the courts and by clearly regulating the power of auxiliary bodies to carry out such detentions.

169. The incidents of violence that occurred during the period covered by the report in the San Francisco Gotera, Sensuntepeque and Santa Ana penitentiaries have highlighted the serious crisis in El Salvador's penitentiary system and the failure of the prison authorities to carry out their duty to provide guarantees regarding human rights. These events also underscore the need to modernize the prison system as soon as possible and to allocate more resources to that sector. In that connection, the consideration and adoption of the prisons bill is an urgent task.

170. In the last few months, the National Civil Police has no doubt had a positive impact on the human rights situation in those areas where it has been

deployed. However, it is essential that the shortcomings that have been identified during the active verification concerning, basically, the process whereby its members are selected, the inadequacy of resources and the inadequate training in police procedures that leads to arbitrary practices, be corrected promptly.

171. The immediate implementation of the constitutional reforms relating to the decentralization of the Supreme Court of Justice is crucial to the independence that should be enjoyed by the judiciary in El Salvador. In that respect, the Human Rights Division is of the opinion that it is incumbent upon the current Legislative Assembly to initiate constitutional reforms that should be completed during the first session of the new Legislative Assembly to be installed on 1 May 1994.

Notes

1/ E/CN.4/Sub.2/1990/29.

Annex

Table No. 1

ANALYSIS OF THE SITUATION FOR THE PERIOD NOVEMBER 1993-FEBRUARY 1994
(TENTH REPORT TO THE SECRETARY-GENERAL)

COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL

Complaints declared admissible	Nov.	Dec.	Jan.	Feb.	Total
VIOLATIONS OF THE RIGHT TO LIFE					
Arbitrary executions	18	15	8	14	55
Attempted arbitrary executions	4	2	0	6	12
Death threats	34	11	10	22	77
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON					
Torture	0	2	1	2	5
Ill-treatment	15	12	8	5	40
Excessive use of force	4	5	5	5	19
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON					
Enforced disappearances	1	1	1	0	3
Abductions	7	1	1	3	12
Other threats	22	11	11	3	47
VIOLATIONS OF DUE PROCESS OF LAW PROCEDURAL GUARANTEES					
Right to be tried by a tribunal within a reasonable period of time	4	3	5	5	17
Right to defence	0	3	1	0	4
Right not to be coerced	2	0	1	2	5
Right to judicial review	0	0	0	0	0
RIGHT TO JUSTICE					
Legal obligation of the State to investigate and punish	23	13	15	17	68
Right to compensation	0	1	1	0	2

Complaints declared admissible	Nov.	Dec.	Jan.	Feb.	Total
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM					
Arbitrary detentions	15	11	5	7	38
Arbitrary detentions for petty misdemeanours	1	2	2	0	5
Procedural guarantees	10	3	3	1	17
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION	1	1	0	1	3
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION					
Right to associate freely	1	2	0	1	4
Freedom of assembly	0	0	1	2	3
Trade union freedom	0	0	0	0	0
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS					
To obtain personal identification documents	0	0	0	0	0
To obtain civil status documents	1	0	0	0	1
TOTAL	163	99	79	96	437

Table No. 2

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

NOVEMBER 1993-FEBRUARY 1994

(percentages)

Violation	Nov.	Dec.	Jan.	Feb.	Total
Life	34.36	28.28	22.78	43.75	32.2925
Integrity	11.66	19.19	17.72	12.50	15.2675
Security	18.40	13.13	16.45	6.25	13.5575
Due process	17.80	20.20	29.11	25.00	23.0275
Personal freedom	15.95	16.16	12.67	8.33	13.2775
Freedom of expression	0.61	1.02	0.00	1.04	0.6675
Freedom of association	0.61	2.02	1.27	3.13	1.7575
Personal documentation	0.61	0.00	0.00	0.00	0.1525
TOTAL	100.00	100.00	100.00	100.00	100.0000

Table No. 3

PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS

NOVEMBER 1993-FEBRUARY 1994

(Period covered by tenth report)

Persons presumed responsible	Nov.	Dec.	Jan.	Feb.	Total	Percentage
Members of national police	22	22	11	10	65	14.87
Irregular groups	5	2	5	12	24	5.49
Persons unknown	50	19	14	26	109	24.94
Members of municipal police	4	0	0	3	7	1.60
Members of national civil police	21	15	12	11	59	13.50
Members of armed forces	5	8	1	4	18	4.12
Public prosecutor's office	0	0	0	0	0	0.00
Administration	1	2	0	1	4	0.91
Judiciary	29	19	25	19	92	21.06
Anti-drug-trafficking unit	6	0	0	1	7	1.60
Criminal investigation commission	0	1	0	0	1	0.23
FMLN	6	3	1	1	11	2.52
Other	14	8	10	8	40	9.16
TOTAL	163	99	79	96	437	100.00

Table No. 4

STATISTICAL ANALYSIS OF TRENDS OVER THE PERIOD JANUARY-DECEMBER 1993

COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL

Complaints declared admissible	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
VIOLATIONS OF THE RIGHT TO LIFE													
Arbitrary executions	12	15	6	11	11	16	16	10	14	13	18	15	157
Attempted arbitrary executions	2	1	2	3	3	1	5	2	4	4	4	2	33
Death threats	8	19	17	11	6	9	25	17	27	7	34	11	191
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON													
Torture	0	2	0	1	1	1	0	0	4	0	0	2	11
Ill-treatment	15	21	28	12	11	15	16	9	21	9	15	12	184
Excessive use of force	3	4	6	7	2	5	10	6	5	1	4	5	58
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON													
Enforced disappearances	0	3	0	1	0	1	0	1	1	1	1	1	10
Abductions	2	0	3	2	1	0	4	5	1	0	7	1	26
Other threats	8	9	14	15	14	16	16	14	14	15	22	11	168
VIOLATIONS OF DUE PROCESS OF LAW PROCEDURAL GUARANTEES													
Right to be tried by a tribunal within a reasonable period of time	0	0	0	0	1	0	1	0	0	0	4	3	9
Right to defence	8	12	2	6	4	4	5	2	3	4	0	3	53
Right not to be coerced	3	8	1	3	2	2	2	2	1	4	2	0	30
Right to judicial review	1	6	1	1	0	1	2	6	2	4	0	0	24
RIGHT TO JUSTICE													
Legal obligation of the State to investigate and punish	4	17	30	27	25	28	24	7	29	25	23	13	252
Right to compensation	0	1	0	0	0	0	1	0	0	1	0	1	4
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM													
Arbitrary detentions	16	16	10	17	31	25	18	12	24	32	15	11	227
Arbitrary detentions for petty misdemeanours	5	16	9	6	5	5	8	9	6	5	1	2	77
Procedural guarantees	5	4	2	2	2	11	2	3	0	4	10	3	48

Complaints declared admissible	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION	0	3	0	2	1	0	0	0	1	0	1	1	9
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION													
Right to associate freely	3	2	5	2	3	2	1	3	2	2	1	2	28
Freedom of assembly	1	0	1	0	0	0	0	0	0	0	0	0	2
Trade union freedom	1	0	0	0	3	1	0	1	2	1	0	0	9
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS													
To obtain personal identification documents	0	1	0	0	0	0	0	0	1	1	0	0	3
To obtain civil status documents	0	0	2	1	0	0	0	0	1	0	1	0	5
Total	97	160	139	130	126	143	156	109	163	133	163	99	1 618

Table No. 5

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

JANUARY-DECEMBER 1993

(percentages)

Violation	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Life	22.40	21.80	17.99	19.23	15.87	18.10	29.50	26.61	27.60	18.05	34.36	28.28	23.327
Integrity	18.30	16.80	24.46	15.38	10.36	14.70	16.70	13.76	18.40	7.52	11.66	19.19	15.615
Security	10.20	7.50	12.23	13.85	11.90	11.90	12.80	18.35	9.82	12.03	18.40	13.13	12.676
Due process	16.30	27.50	24.46	28.46	25.40	24.50	22.50	15.60	21.40	28.57	17.80	20.20	22.733
Personal freedom	26.50	22.50	15.11	19.23	30.95	28.70	17.90	22.02	18.40	30.83	15.95	16.16	22.023
Freedom of expression	0.00	1.88	0.00	1.54	0.79	0.00	0.00	0.00	0.61	0.00	0.61	1.02	0.538
Freedom of association	6.12	1.25	4.32	1.54	4.76	2.10	0.64	3.67	2.45	2.26	0.61	2.02	2.645
Personal documentation	0.00	0.63	1.44	0.77	0.00	0.00	0.00	0.00	1.23	0.75	0.61	0.00	0.453
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.000

Table No. 6

PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS

JANUARY-DECEMBER 1993

Persons presumed responsible	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total	Percentage
Members of national police	35	53	65	41	53	51	61	36	49	33	22	22	521	32.46
Irregular groups	1	1	4	5	12	5	10	2	3	5	5	2	55	3.42
Persons unknown	13	20	11	16	12	15	24	19	31	15	60	19	245	15.11
Members of municipal police	9	11	4	3	4	6	4	6	4	2	4	0	57	3.54
Members of national civil police	0	0	1	2	0	4	3	3	5	20	21	15	74	4.35
Members of armed forces	5	24	11	10	5	7	10	6	7	3	5	8	101	6.28
Public prosecutor's office	0	1	0	1	0	0	1	0	0	0	0	0	3	0.19
Administration	5	1	2	1	0	2	1	0	8	1	1	2	24	1.49
Judiciary	14	21	20	33	29	34	29	14	32	34	29	19	308	18.97
Anti-drug-trafficking unit	0	3	0	4	0	4	0	5	6	5	6	0	33	2.05
Criminal investigation commission	0	0	0	0	0	0	0	0	1	2	0	1	4	0.25
FMLN	3	5	4	2	6	8	3	5	2	0	6	3	47	2.86
Other	12	20	17	12	5	7	10	13	15	13	14	8	146	9.03
Total	97	160	139	130	126	143	156	109	163	133	163	99	1 618	100.00